



**NORFOLK ISLAND LEGISLATIVE ASSEMBLY
12TH NILA HANSARD – 16 JANUARY 2008**

PRAYER

Almighty God we humbly beseech Thee to vouchsafe Thy blessing upon this House, direct and prosper our deliberations to the advancement of Thy glory and the true welfare of the people of Norfolk Island, Amen

LEAVE OF ABSENCE FOR MR CHRIS MAGRI MLA

MRS JACK Mr Speaker I seek leave for Mr Chris Magri, Minister for Commerce and Industry from today's meeting

SPEAKER Is leave granted Honourable Members. Leave is granted. Thank you

CONDOLENCES

Honourable Members I call on condolences, are there any condolences this morning?
Mr Tim Sheridan

MR SHERIDAN Thank you Mr Speaker, this House records the passing of Marjorie Dawn Nobbs affectionately known as Missa. Missa was born at the Mission Hospital in Norfolk Island in March 1931, the eldest child of Nellie and Walter Wootta Adams. The following year her brother Ernie was born. They spent their early years living opposite Nella's in Taylors Road. Missa moved to Sydney for a while and worked on the trams, a job she enjoyed. A couple of years later she moved back to Norfolk where she met and married Herbert Nobbs. They had six children, Brancker, Sybil, Ernest, Walter, David (Tooby) and Lorraine. Tooby tragically died in 1981 and Herbert in 1992. Missa is survived by her three sons, two daughters and thirteen grandchildren – Simon, Larrin, Kelly, Timber, Jessie-Lee, Sam, Boogs, Calum, Cody, Laura, Timika, David and Ashley. Dawn was a true Norfolk Islander in every sense of the word. She loved her garden and she loved to fish, pick a hihi, go f' lemon en a porpay. She was a wonderful cook and an expert in making pickles. She was a great provider to her children and her table was bounteous. Dawn believed strongly in the Norfolk traditions of Bounty, ANZAC, Thanksgiving and Christmas, cooking up a storm. One of her favourite sayings was that "she wasn't a chef in Singapore for nothing!" Dawn and Loul would often visit Pete, Sybil and Simon when they lived in New Zealand and she formed firm and lasting friendships there. She was a great entertainer and her cottage was a gathering place where everyone was welcome. She always enjoyed having family and friends around her. In later years Missa lost some of her mobility but could still be found fishing off either pier with her good friend Julie who would not only take her fishing, but would also take her 'on manoeuvres' and Missa's family truly appreciated this. Her brother Ernie's visits home were a highlight and she would often count the days until he returned. She had a fantastic memory and a cussed sense of humour. As I said earlier Mr Speaker, Dawn was a true Norfolk Islander and her passing is our community's loss. To her children and their families; to her brother and his family; to Dawn's many friends this House extends its deepest sympathy. Mr Speaker, may she rest in peace

MR SPEAKER Thank you Mr Sheridan. Honourable Members as a mark of respect to the memory of the deceased, I ask that all members stand in silence please. Thank you Honourable members.

WELCOME TO VISITORS IN GALLERY

MRS JACK Mr Speaker I would like to point out that in the Gallery we have Mrs Ruth Forrest and her husband Bruce. Mrs Forrest is the Independent Member for Murchison in the Upper House in the Tasmanian Government and her area takes in Northwest and West of Tasmania, King Island and the Strachan area, the World Heritage listed area and I would like to extend our welcome to Mrs Ruth Forrest and her husband Bruce. Thank you

SPEAKER Thank you Mrs Jack and I'm sure on behalf of the Legislative Assembly here this morning, the staff and people of Norfolk Island we extend to you a very good holiday here on the island and such interest I appreciate of course that some of the areas that you are responsible for or involved with are areas that certainly are subject to us here today so I'm sure you'll have some very interesting discussions. I also take this opportunity to welcome other visitors to the Gallery here this morning. I hope you enjoy your time here on the island

PETITIONS

We move to the matter of petitions. Are there any petitions this morning?.

GIVING OF NOTICES

Are there any notices?

QUESTIONS WITHOUT NOTICE

Are there any questions without notice?

MR CHRISTIAN Thank you Mr Speaker, a question for the Minister for Finance. In a press release prior to Christmas the Minister stated he would allow for the conditional importation of wine by private importers. Why was this legislation changed and who will benefit from this change

MR CHRISTIAN Thank you Mr Speaker, and I thank Brendon Christian for that question. Firstly, no legislation has been changed. What has been changed is the mark up policies that are put in place by the Norfolk Island Liquor Bond Store. The basis for that press release goes back probably to October 2007 and I am aware that as a result of some recent importation of wine that a number of people have jumped to the wrong conclusion in respect of that press release. During the Sesquicentenary year Two Chimneys Wines of Steeles Point was given special permission to import wines for the celebratory year. A previous Minister for Finance gave them a one of very favourable importation terms for that wine. In about October of last year I received a letter from Mr Rod McAlpine of Two Chimneys Wines seeking more favourable trading terms from the Liquor Bond and he was seeking those more favourable terms because he thought that he did all of the work including identifying and sourcing his suppliers, arranging delivery and whatever and as a result of him doing all of that work he didn't think that he should pay the bond's mark up. It was listed for discussion by executives on a number of occasions and at about that time Mr Gardner was absent from the island for a couple of weeks and the executives decided to halt deliberations on the matter until Geoff was back in town so that we could have all the executives participating in the deliberations. Mr Speaker the upshot of all of that was that Mr McAlpine was seeking specialised treatment and the executive members decided that if we were to change the Liquor Bonds mark up policies, that the new policy wouldn't be just available to one individual organisation, it would be a general policy variation that was available to anybody who satisfied the conditions. We then sought advice from the public service and that included the CEO who had input and also input from Doug

Jackson at the Liquor Bond and what we have decided is that anybody who wishes to import wine and this only applies to wine, and they purchase from a single supplier. We would vary our mark up and the mark up basically is 20% and that's the reduction from 45% but what you've got to do is to comply with the conditions and the conditions are that the minimum order by for \$20,000 placed with a single supplier and the order is placed through the Liquor Bond. In the past we've allowed people to place the order themselves and then notified the Liquor Bond that the order is on its way and the big change here Mr Speaker, is that the order must be placed by the Liquor Bond staff. The customer is to accept the shipping risk, because whilst the Liquor Bond has insurance cover for damage during transit we are very reluctant to lodge claims for small amounts of damages. This will no doubt over the long term push our insurance premiums up so we have transferred the risk to the customer so the customer accepts all shipping risks and what we have also said, is that payment and pick up of the order must occur within ten days after notification that the order is ready for pick up and if you don't pay for it and pick it up within that time frame, you lose the discount. That's what I've done and after lengthy consultation with my executive colleagues it's a new policy that's available to everybody who satisfies the conditions whether they are a company, a large business or a private individual. They can all take advantage of it.

The other matter that occurred in respect of the importation of wine for the Colonial of Norfolk Island and I'm happy to respond to questions specifically to that and Members will see that I am seeking leave later today to make some changes to our liquor legislation which would prevent the Colonial type occurrence reoccurring in the future

MR B CHRISTIAN Thank you Mr Speaker, would it not then be fair to say that this privilege should be extended to bulk users of all types of alcohol

MR CHRISTIAN Thank you Mr Speaker, we certainly could consider that but the request that was made to me in writing was in respect of wines so we developed a policy in respect of wine. If others want to write to the Administration in respect of beer or spirits, we are happy to consider it

MR SHERIDAN Mr Speaker I have a few here but firstly to the Minister for Telecommunications. Minister can you advise if the new contract with AAPT to provide services to Norfolk Island has been signed on as yet and if not, what is the hold up and when can we expect this to happen

MR CHRISTIAN Thank you Mr Speaker, and thank you Mr Sheridan for that question. The contract with Telecom New Zealand and AAPT has been signed off, that occurred just prior to the Christmas break and orders have been placed for the second satellite dish and that's been manufactured in Hong Kong I think and I would expect that we were still on target for the end of February early March transfer to the new carrier

MR SHERIDAN Mr Speaker a supplementary please. Minister so with this end of February deadline is that when we can expect to have the full mobile network operating so that we can utilise the full range of technology such as roaming, texting overseas, sending photographs and videos etc.

MR CHRISTIAN Thank you Mr Speaker, that is when that would be available. It could come ahead slightly because we will be having a staged transfer from one carrier to the other. The technology to enable the sorts of things that Mr Sheridan is talking about requires a switch from c5 to c7 satellite signaling. That test bearer is up and running now and testing is under way so I imagine that when I've said February March for a complete switchover you may find that texting and so on internationally might be brought forward slightly

MR SHERIDAN Mr Speaker a question for the Chief Minister. Chief Minister in the November sitting you tabled a draft Strategic Plan for your term in Government and indicated that the final document would be tabled in the December sitting. This didn't happen. Chief Minister when will the Legislative Assembly Members be able to view the completed document and when do you intend to table it in the House

MR NOBBS Mr Speaker what I made clear in December and also outside the House in the local newspaper was that we would be publishing a version of the Strategic Plan within the early stages of this year, hopefully before the end of February and that will enable everyone to have access to it or if they choose to they can ask us to give them electronic access to it to cut down on paper usage etc and the draft as everyone is aware was made available for public comment which I did receive quite a few constructive ideas on that were included in that so in answer to Mr Sheridan's question the completed document will be published and printed within the next two months

MR SHERIDAN Mr Speaker a question for the Minister responsible for the Norfolk Energy. Minister with the recent increase in the fuel prices and the flow on effect with GST revenue to the Government of approximately an extra two cents per litre sold which equates to an extra income of some \$40,000 to \$50,000 per year to the Government coffers, was this income considered when setting the new fuel prices or is Norfolk Energy gaining extra energy by stealth

MR CHRISTIAN Firstly Mr Speaker I've got to say that we're not in the business of gaining extra revenue by stealth. Sure there is a GST component to the cost of fuel. It has replaced duty as I understand it in the new price calculations. It's arguable whether the GST component actually does increase revenue to the Government coffers because businesses who are registered for GST are able to claim the GST as an input tax credit into the cost of running their businesses. Obviously that same option isn't available to the private consumer because they are not required to be registered for GST purposes but one would hope that businesses that use fuel to operate would not necessarily have to pass on all of the cost increases in one hit, or if at all. Now I have circulated this morning a schedule setting out what the old price of fuel was prior to the increases that took effect from the first delivery on the 14th January and setting out the new increases or the new prices and the actual movement in the price. These price calculations are done in house by Vince Reeves within the Administration

MR B CHRISTIAN Thank you Mr Speaker a question for the Minister for Finance. Does the Government charge a fee for the reading of electricity metres when the price of the power is increased by the Government

MR CHRISTIAN Thank you Mr Speaker, and once again I welcome this question from Brendon. What we do in the electricity service Mr Speaker is we charge a meter hireage service for having the metre situated in your electricity box and that's pretty much the same as for the privilege of having your telephone lines run to your property and all of that, but we do not charge a separate metre reading fee whenever we read the metres.

MR SHERIDAN Mr Speaker a quick question for the Minister responsible for KAVHA. Minister with regards to the new CMP being constructed can you give a definite date as to when it will be ready to be viewed by the public considering that in the December sitting you indicated it would be ready by no later than mid January and that's where we find ourselves now

MRS JACK Mr Speaker in response to Mr Sheridan's question it has been unfortunate that there has been a slippage over the past months. But in talking with some people in the new Department of Environment, Heritage and the Arts yesterday and today, and their talking with DoTARS I am advised that it is extremely

close to being sent and that one would hope, indeed it's being planned, for public consultations. DoTARS and the Norfolk Island Government have to get together on a suitable time for release, the initial period for that month long consultation process to begin and we are all expecting early February

MR SHERIDAN Mr Speaker a question to the Chief Minister being responsible for the Public Service. Chief Minister at the last meeting of the Legislative Assembly in response to a question regarding the process undertaken to employ airline staff the Minister for Finance responded with reference to sections of the Public Monies Act, to the effect that he was not advised to act in accordance with the Public Sector Management Act when acquiring goods or services for GBE's that form part of his portfolio responsibilities. Chief Minister my question is as Minister responsible for the Public Sector Management Act do you agree with the Minister for Finance's view that the provisions of the Public Monies Act referred to by the Minister for Finance over ride any obligation that the Minister for Finance might have to comply with the Public Sector Management Act in the acquisition of goods and also for GBE's on Norfolk Island

MR NOBBS Mr Speaker Thank you and Thank you Mr Sheridan. As I understand it at the asking of that question in this sitting of the House the Minister for Finance made clear reference to legislation and parts of the Act that pertain to your particular question so without being able to paraphrase or without having the Act beside me, as I understood it he had those abilities and in the interim between now and the next sitting or for your own information following this meeting I will personally go through the articles you talk about

MR SHERIDAN Mr Speaker Thank you. Chief Minister would you agree that on the face of it the Minister for Finance's interpretation of the Public Monies Act would allow him as the Executive Member to make virtually any purchasing decision for goods and services for the public sector activities without any obligation to observe the established Administration process that provide checks and balances on the actions of public service when they are spending public monies

MR NOBBS Mr Speaker I wouldn't fine that that would be the case. Actions taken by all of the executive in terms of and in particular major expenditure or alterations to their areas in their portfolio are brought to the executive meetings and so it would most certainly be debated in that regard and that really precludes the actions that you are indicating whereby they could operate entirely on their own

SPEAKER Thank you Chief Minister. Mr Sheridan, maybe before you commence with your next question may I remind Members that under certain provisions and Standing Orders questions shall not be asked for an expression of an opinion or for a legal opinion and we would like the general rules to apply to answers thank you

MR SHERIDAN Mr Speaker thank you for that, I'm not asking for a legal opinion, I was asking for the Chief Minister's opinion. I have a supplementary there Mr Speaker. Chief Minister whether or not the Minister for Finance was in accord with the legislation or not it would appear that the ability of the Minister for Finance to commit to the expenditure of public monies without some rigorous process does not reflect the spirit of your introduction to the Strategic Plan consultative draft, specifically dot point 8, "Best Practice Approach towards Administrative Service Delivery", dot point 10, "Accountability and Productivity, anti corruption mechanisms and therefore, will you give this Legislative Assembly an undertaking to amend the Public Monies Act to the extent as much as necessary to protect the public's interest

MR NOBBS Mr Speaker I will definitely take an answer to this one. I will definitely be part of a review mechanism that makes sure that we are conducting our business in a way that is suitably transparent and carries out the correct

process. We've discussed at many executive meetings a number of different options that we may use to ensure that each alteration as I mentioned before to any Members portfolio goes through a discussion and agreement process that is traceable and transparent and I will make that part of a review of that to make sure that we are acting in that capacity

MR SHERIDAN Mr Speaker again to the Chief Minister a separate question. At the last meeting in response to a question regarding the restructuring of the Public Service you indicated that certain actions were in train and that while consultation had occurred you hoped that this was more advanced. Chief Minister as you would be aware under the Public Sector Management Act there is provision for a staff consultative committee to operate as a point of consultation between management and staff on matters to do with the operation of the Public Service. Can the Minister advise if there has been consultation with this body in relation to restructure and if this has not yet occurred, why has it not occurred

MR NOBBS Mr Speaker as many people would be aware there was an internal expression of interest sent out to the Public Service to allow us to upgrade someone to act in the position of executive director, Corporate and Community Services which enables a lot of those type of discussions to go on. There has been a lot of work gone into the options of restructure and in terms of making it available to the broad cross section of the Public Service that was also part of the remuneration package that was circulated, was an idea of how the operating system of the service would be adjusted

MR SHERIDAN Mr Speaker a supplementary please. Chief Minister in the consultation draft for the Strategic Plan you indicate three tasks associated with the improvement of the Public Sector. You referred to one of those tasks at the previous Legislative Assembly meetings as process mapping. The other two tasks were a review of the Human Resources Policy and a review of the Public Sector Management Act. Can the Minister advise the House as to the nature of the review and in particular, any deficiencies that such a review would seek to address

MR NOBBS Mr Speaker as many are aware. One of the particular targets of that review is to ensure that we have adequately outlined the areas of responsibility for each Member of the Public Service and given clear operating principles for each of their positions to ensure that we are able to not only gauge productivity but enhance productivity by people that are able to have access to exactly the resources they need for their positions. Does that go some way toward answering your question Mr Sheridan

MR SHERIDAN Mr Speaker it does but I'm sure I'll have some supplementary questions as well

MR SHERIDAN Mr Speaker a question for the Minister for Finance. Minister I refer once again to your response to my question at the last meeting relating to the airline where your response relied on your interpretation of the provisions of the Public Monies Act. This matter is of some concern in the community and in the spirit of open and accountable Government will you undertake to provide the House with a statement of the number of occasions, the expenditures by value and the nature of the expenditures that you have authorised based on your interpretation of your executive authority under the Public Monies Act

MR CHRISTIAN Thank you Mr Speaker, I'm certainly more than happy to do that and what Mr Sheridan needs to understand is a number of things when it comes to Government. One is Mr Speaker, I don't on my own make or pass the legislation but he also needs to understand the term executive and what that means and where legislation gives an executive member the ability to exercise his discretion, I do

exercise that discretion Mr Speaker, and I do make decisions based on what the law allows me to do. If Mr Sheridan has a difficulty with that, that's a problem for Mr Sheridan

MR SHERIDAN Mr Speaker just one further one there directed to the Chief Minister. Chief Minister can you advise the House whether or not it is within your power to instruct the Minister for Finance to suspend the exercise of the powers he refers to based on his interpretation of the Public Monies Act pending legal advice confirming or otherwise the accuracy of his interpretation

MR NOBBS Mr Speaker in referring to an earlier statement made by the Speaker with regard to Standing Orders and me making decisions on legal interpretation I would be inclined to only answer it in saying that if the executive felt that a Minister was acting improperly in his or her role that it would most certainly be addressed by each of us and it would also be no doubt brought to everyone's attention at various levels of the MLA meeting, the executive meeting or even the House

MR SHERIDAN Mr Speaker a supplementary please. Would you undertake to ask a question of our own Legal Branch as to whether or not the Minister for Finance's interpretation is correct

MR NOBBS Mr Speaker yes I have no difficulty with asking for an interpretation from the Legal Services Unit. Perhaps you could give me the exact outline of your question at the end of this meeting and I will ensure that, the exact question is put to the Legal Services Unit

MR CHRISTIAN ... answers Mr Speaker in that respect. Certainly the Public Monies Act hasn't been changed for quite some time, I think it was last amended in 2001 or 2041 or 1997 maybe but the important thing is that numerous executive members for Finance have exercised that discretion and every one of them has been approved by the internal and external audit process

MR B CHRISTIAN Thank you Mr Speaker I have one final question for the Minister for the Environment. Has the Minister yet read the report into disposal of waste on Norfolk Island and if so, does the Minister intend to table this report

MRS JACK Thank you Mr Speaker in answer to Mr Brendon Christian's question, yes, the report has been received and read by all Members in this forum. Further questions have been asked, that Members have raised at a couple of meetings, I've asked for a speedy response because we believe it is to be an action that needs work on it, positive work happening on it, in fact the fellow who compiled the report on behalf of URS is due here next week and it is hoped to start the scope of works regarding the specifications, purchasing, site, etc. As for tabling that report, Mr Speaker, is it usual to table reports of that nature? I have no trouble in tabling it. Perhaps at the next meeting or making it available to the public but I want to get the questions answered and just go through it perhaps once more with Members exactly on ramifications of it and then certainly

SPEAKER Thank you Minister. Of course it is entirely your prerogative to at your leisure lodge that report to the House and publicise it whenever you feel so inclined. Any further questions without notice. There being no further questions without notice we now move on to Presentation of Papers

PRESENTATION OF PAPERS

Are there any Papers for presentation this morning Honourable Members

MR NOBBS Mr Speaker at the November sitting of the House I tabled the final draft copy of Annual Report of the Administration of Norfolk Island for the

financial year 2006-2007. For the information of Members I now table the final copy of that report. As usual the report will be published and made available to the general public. I also table the Administration's Annual Report financial year 2005-2006 prepared by the former Acting Chief Executive Officer and forwarded to my predecessor as Chief Minister earlier this year. It would appear that in the circumstances of an early election and the installation of the Twelfth Legislative Assembly the tabling of this document was overlooked. Unless there is an objection from Members I will also arrange for this report to be published in the usual format. Mr Speaker these annual reports demonstrate the enormous range of services provided to the community of Norfolk Island by the very dedicated and skilled workers in the public sector. I encourage all Members to read the reports and publicise them within the community because I believe that many people are unaware of the vast scope of essential and community services provided and of the very low level of taxes and charges which provide the revenue necessary for the Administration to continue its excellence in service provision. I wish to thank both the current Chief Executive Officer and the previous Acting Chief Executive Officer and every Member of the Public Service for their commitment and hard work in achieving in the outstanding results which are detailed in these Annual Reports. Thank you Mr Speaker

MR GARDNER Mr Speaker I table the Inbound passenger statistics for December 2007 and move that the paper be noted

SPEAKER Honourable Members the question is that the paper be noted

MR GARDNER Mr Speaker as Members would be aware as they are provided with the copies of the statistics and data via email as I understand it, from the Tourist Bureau they will have noticed that numbers for December were down on last year. Despite the fact that the reports from my colleague the Minister responsible for the Airline, was that we had expectations of having record visitor arrival numbers for the month of December, but due to the unforeseen weather impacts, in the last week of December, it certainly blew a big hole in that and we actually ended up being about 300 visitors down on the same time last year. Despite that Mr Speaker there are some encouraging signs from within those figures and particularly from the Victorian market and in discussing the matter with the Minister for Finance the other day it was pleasing I guess to be able to say that the establishment of the direct Melbourne service has been a bit of a catch all for us as far as visitor arrival numbers to the island are concerned which show that there's been a significant increase in the percentage of visitors arriving out of the Victorian market so it's pleasing to see that. However, it is not so pleasing to see some of the drop off in some of the other States and Territories visitations to Norfolk Island and my particular ongoing concern with the continuing decline of visitor numbers from New Zealand which as I spoke about last month, there are initiatives in place to significantly address that decline and again, as I said last month, I think still too early to really determine the impact of those new initiatives as a result of the passing of the budget by this House back in June of last year. However, we look to the future and I'm confident that numbers will continue to grow and deliver additional prosperity to the community generally in Norfolk Island. In saying that Mr Speaker I would also like to recognise the contribution of so many people during the recent unfortunate weather that we experienced in the last week of December and the first week of this month. A lot of people went to great efforts to try and contain fallout and any potential damage that the weather might have caused to our status and standing in the tourism industry and yes, there has been a great deal of negative comment within the community generally and within the industry but by the same token a lot of very positive feedback has been received about the sterling efforts that a lot of people within the industry have made. In particular many Administration staff that are tied up with the operations of the airport and other activities within the Administrative structure that tourism is reliant upon, Members of the Tourist Bureau, the airline staff and those within the tourism support industries on Norfolk Island have made a sterling effort to ensure that people who were stranded here

on the island and also offshore were provided with information as best as possibly can be done, and I think with the establishment of the call centre on Norfolk Island that was a blessing in disguise, in that period of time. It came at just the right time, because I think we would have really struggled to have got any information out onto the ground and to the industry with the previous arrangements that were in place. So all credit to those people who have made a very sterling effort to ensure that we maintain a strong profile in the industry and to namely I think improve our situation long term as a proposed debrief on that to see where failings may have occurred and how they can best be addressed and its only going to strengthen our position into the future but thank you very much to all of those who were involved in those delays and I'm sure my colleague Minister for the Airline will join me in those sentiments, truly with the outstanding effort by a lot of people to maintain control of the situation in a very difficult circumstance. That's all I have on that Mr Speaker but I would be interested if any other Members comments particularly on the visitor arrival statistics or the difficulties that we encountered over the last couple of weeks

MR NOBBS

Mr Speaker thank you. I would just like to reflect a few of the things that Minister Gardner pointed out there in that it was a trying time for us with a record breaking weather phenomenon hitting Norfolk Island and the coast of Australia. It impacted on all our flights and people's holidays and our scheduling and things like that. It also enabled us to have a bit of a trial by fire for some of our new services such as the new call centre and it also showed the ability of those who are working in those areas to go the extra mile, and I say that because I know there were rolling schedule changes going to try and maximise our use of whatever clear days might crop up. Those rolling schedules were changing virtually hour to hour. The call centre as I detailed in the newspaper had some 2500 phone calls go through, and although we've definitely learnt a few things from that experience as well, we definitely I think, rose to the challenge of what Mother Nature threw at us. There are some other areas that perhaps we need to look into, and that maybe to do with how some of our visitors are accommodated in those particular instances where they were detained on Norfolk Island due to weather and no tourists were coming in to their current accommodation and they were unable to leave, whether we need to have some discussion with the tourist accommodation proprietors and just re-evaluate how best we can service these tourists, and that actually goes across the board to the retail and restaurants in that I know personally having gone out on a couple of the nights to the various service or restaurant facilities available on Norfolk Island that in one particular instance, when there were a lot of people stuck on Norfolk Island, there was in effect only two food outlets for them to access, and these are the things that we need to really decide how we are going to provide the best service which fits right into the five year tourism strategic plan. We have to adapt and ensure that we are giving the best that we can for Norfolk Island across the board because when our visitors leave, generally it's only the one worst experience that they sometimes bring up in conversation and given that 40% of our return or new tourism is based on word of mouth, we could be sharpening ourselves up a little in some areas to ensure that the service across the board is the best that we can deliver. We are a tourist destination. Thank you

SPEAKER

Thank you. Further debate Honourable Members. There being no further debate, the question is that the paper be noted and I put that question

QUESTION PUT
AGREED

SPEAKER

Thank you.

Thank you.. Any further Papers Honourable Members

STATEMENTS

We move to Statements of an official nature. Are there any Statements this morning Honourable Members

MR GARDNER Mr Speaker I speak in relation to the retirement of Dr Mervyn Thomas, our visiting gastroenterologist who's been visiting Norfolk Island since December of 1994 and in anybody's view that's an extensive period of time that he's been providing a very valuable service to people on Norfolk Island and I think that statistics show that over that period of time, he's had the ability to be able to attend to on average, some twenty odd patients in that time with surgery and other matters and has provided a very valuable service to the island. There's no doubt about that at all in my mind and he will be visiting next week for the final time in that very lengthy period of service and I would like to publicly acknowledge that today. Mr Speaker he will be bringing with him his replacement who will be taking over the reigns and filling that void in our visiting specialist programme into Norfolk Island and in that regard I would like to welcome Dr Jelika Kurdovich to the island and let's hope that Dr Kurdovich will be able to provide the same lengthy service to the people of Norfolk Island which obviously is invaluable to the provision of health service

SPEAKER Thank you Mr Gardner. I'm sure Members will join with me in expressing our gratitude to Dr Thomas for his works over the years, since 1994 as expressed by Mr Gardner and on behalf of this House I certainly extend our thanks to the Dr. Are there any further statements of an official nature Honourable Members. We proceed

MESSAGE FROM THE OFFICE OF THE ADMINISTRATOR – NO 11

Honourable Members, I have received the following Message from the Office of the Administrator and it is Message No 11 which reads that on the 3rd January 2008, pursuant to section 21 of the Norfolk Island Act 1979, I declared my assent to the following laws passed by the Legislative Assembly, the Sentencing Amendment Act 2007, the Companies Amendment Act 2007, the Public Monies Amendment Act 2007, the Public Monies Amendment No 2 Act 2007 and that message was dated the 3rd January 2008 and signed by Owen Walsh, Acting Administrator

REPORT FROM STANDING COMMITTEES

Honourable Members are there any reports from standing committees. No Reports. We move on to Notices

NOTICES**KAVHA – PROPOSED WORLD HERITAGE LISTING**

MR SHERIDAN Mr Speaker I move that this House does not support World Heritage Listing of the Kingston and Arthur's Vale Historic Area known as KAVHA, at this point in time until the following are achieved: a. a new KAVHA Conservation Management Plan (CMP) to replace the current 1988 CMP has been agreed and adopted by both the Norfolk Island and the Australian Governments; and b. having regard to the concerns raised by landowners in KAVHA the executive member with responsibility for KAVHA has entered into urgent dialogue with the Australian Government requesting consideration to vary the existing KAVHA boundaries. Thank you Mr Speaker, firstly let me say that in moving this motion I am in no way advocating that I do not support the nomination of World Heritage Listing of the KAVHA area and I am not implying that this House not support the nomination. Mr Speaker what I am asking is that we do not rush into things and support the nomination of the KAVHA area to the World Heritage List without the assurance of first knowing that both the Norfolk

Island and the Australian Governments have settled on a comprehensive Conservation Management Plan. And only after taking into account, all of the considerations that the Norfolk Island community have in regard to this nomination. Mr Speaker on the first point, in regard to a new CMP to replace the 1988 CMP of which the review has been ongoing now for some years. The fear that I have in relation to this, is this. That we do not have a signed off CMP in the near future then agencies that have an interest in seeing that the KAVHA area is listed on the World Heritage List will impose a CMP onto us just as the Commonwealth EPBC Act was imposed on us in 1999 by the Australian Government without consultation or agreement by the Legislative Assembly of the day on Norfolk Island. Mr Speaker by supporting this motion I believe this House is indicating that we would like to see the new CMP ratified as soon as possible by both Governments. Mr Speaker if Norfolk Island is home to the residents of Norfolk Island as indicated in the Norfolk Island Act 1979, which is the Act to provide for the Government of Norfolk Island and in part states ...”that Whereas the residents of Norfolk Island include descendants of the settlers from Pitcairn Island and whereas the Parliament recognises the special relationship of the said descendents with Norfolk Island and their desire to preserve their traditions and culture, then the area of KAVHA would almost certainly be recognised as Norfolk Island’s backyard. Backyards, Mr Speaker is where the occupants of this community enjoy their freedom to do as they wish. Swim, fish, play sport, relax, celebrate festivities, enjoy each other’s company and in general protect the vista which they are surrounded by. Mr Speaker nobody in this community would like to see this area altered without being able to have their say and by supporting this motion we are then telling the community that we are listening to their concerns and we are speaking and acting on their behalf. There are a number of concerns that residents of Norfolk Island have in regard to the CMP. Concerns that appear as of yet to not have been adequately addressed. Concerns of which are viewed by quite a number of residents as being worth fighting for and they’ve asked that we, this Legislative Assembly take up this on their behalf. Mr Speaker this I have done. Mr Speaker one of these concerns is the boundary of the KAVHA area which is being considered for nomination and currently is a listed place on the National Heritage list. Some of this area is freehold land. Some is crown land. Some is crown land. The area currently encompassing the KAVHA area is the flat area of Kingston of some 250 hectares, and in the main up to the 90 metre contour on the slopes overlooking the Kingston area. This revised CMP must take into consideration the concerns of the landowners affected by this area. Mr Speaker in correspondence recently received from the Heritage Assessment Branch has confirmed that the boundary that will be used for the purpose of the World Heritage nomination is the KAVHA boundary. It also states that this boundary was set and agreed upon between the Australian and Norfolk Island Government in 1980 and has been agreed to and relied upon by all successive Norfolk Island Government since that date. Mr Speaker this is only because the CMP has not been updated since 1988 and considering that the 1988 CMP was published with a recommendation that it be revised every seven years, this has obviously not been adhered to. Mr Speaker even without the updating these boundaries would most probably be fine unless a future nomination of the area does not increase the boundary. The residents concerns are justified when it is realised that there is already another nomination lodged with the Heritage Council and its status of yesterday was that of a nominated place. Mr Speaker this means that the Ministers delegate has received a nomination on the approved form and carried out an initial assessment on data adequacy. The nomination either will be or has been referred to the Council for assessment. This is one of the first steps to have a place placed on the National Heritage List. The mandatory precursor to World Heritage nomination. In this nomination the area is covered by some 750 hectares, encompassing the KAVHA area as we know it, plus another 500 hectares. Mr Speaker this extra area commences at the end of Collins Head Road, Rainbows End, and goes along the road to Queen Elizabeth Avenue, to the junction of Taylors Road, behind the shopping centre of Ferny Lane and round to New Farm Road and Rocky Point and then back down to the water. This nomination is of great concern to the very existence of maintaining approximately one third of Norfolk Island to the way that we know of it as we do today. This is the very

thing that residents are wary of and if this nomination was to become a listed place, then it could only be a matter of time until the world heritage listed boundaries are adjusted. These are some of the matters that need to be thrashed out prior to KAVHA being world heritage listed. Also of concern is that in a recent 2004 draft CMP for KAVHA there is a map indicating this same area as being protected from inappropriate activities, an area to be protected from visual intrusion. A viewshed of which we are told there is no such thing. Until the community has had the opportunity to review the new CMP there will always be this speculation. How could any of this Legislative Assembly support the world heritage listing prior to viewing a new CMP. Other concerns come about by Minister Jack's press release wherein in part she noted that much of KAVHA remained crown land owned by the Australian Government. This included crown land leased by the individuals who do not own the land. This could be read as if the Australian Government could resume these portions of land on a whim. These are some of the fears that landowners in this area face. Long term owners of these lands which have been in the families for years. The fear of losing these lands which they've kept in good order for generations, being taken from them on a whim. These are some of the issues that this motion requests the Minister to enter into urgent dialogue with the Australian Government. Something that all in this room should support. There are hundred and one things that need to be discussed prior to the nomination of KAVHA to all heritage listing and if we do not get it right the first time, then we are selling out the backyard that we know and love. I would prefer not to support this listing to world heritage until all checks and balances are complete, and then I believe we would have the majority of the community with you, not against you and with this in mind I urge all Members to support this motion unamended. Thank you Mr Speaker

MRS JACK Mr Speaker, Mr Sheridan has mentioned a great many points in his debate and writing down as he was going along, I decided to stop jotting the points because many of them I think are repeating the concerned residents two page notice that went into the paper two weeks ago. Roughly two weeks ago. Mr Speaker I was part of this Legislative Assembly that supported the second nomination for world heritage listing, supported its commencement and continue to support it to this day. And I agree with Mr Sheridan that the community as a whole does want world heritage listing. I don't believe that the community as a whole wants us to stop until these issues are answered because they are not intertwined. The world heritage listing is not part of their concern. That is a separate event that is going to happen. And the CMP and finalising it has got another year and a half until the nomination is actually considered and the decision made by UNESCO. It doesn't have to be finalised now and in fact, I believe and the others who have read the CMP that the changes to it are great and the recognition of the importance that this area has overall in the day to day cultural and heritage significance of the third settlement if you will to Pitcairn, remain in place. But I am certainly not going to support this current motion. I intend to table a document that all Members have just received at this meeting, it is my intention to table that and if necessary, talk to each of those concerns that were written in the paper, and at a suitable time, propose an amendment to Mr Sheridan's motion. If I could then, just go on Mr Speaker and talk about the concerns that were listed in that two page letter, signed concerned residents, the claim is that the world heritage proposal currently being progressed, that a number of concerns have been raised by landholders in KAVHA, but as yet no attempt has been made to satisfactorily address those concerns. Well my response to that Mr Speaker is that here has been extensive consultation as well information provided on what is happening and when. There have been numerous media statements, public meetings, meetings with officials and Ministers, phone calls, statements and answers to questions in the Legislative Assembly. Further meetings and consultation will occur with the release of the draft Conservation Management Plan (CMP) in the next couple of weeks. There have been one-on-one meetings and discussions with KAVHA landholders held to date and some of those meetings confirmed that not all of those landholders oppose world heritage listing. As I think I must make clear Mr Speaker, in a meeting that many of us attended last Tuesday night, they took great pains to say that they were not opposed to the world heritage listing. They

wanted it put off until their concerns were answered. I believe that their concerns over a period of time have already been answered and that the nomination will proceed and should proceed and that their concerns can be dealt with in an underlining and more efficient manner and in fact, Mr Speaker I've been trying to deal with certain case by case issues for a couple of the landowners within KAVHA. I also in my response Mr Speaker state that the nomination of KAVHA for World Heritage listing is in the interests of the whole community of Norfolk Island. It is important that landholder issues be addressed, as they are I believe in this document. The Norfolk Island Government will continue to address 'landholders concerns', within the context of the broader public interest and its commitment to the protection of the local, national and international heritage values of KAVHA. The statement in the paper also made an attempt to claim that This statement is an attempt to collate all the concerns and communicate them to elected representatives of the Norfolk Island and Australian Governments. I found that statement misleading because if that were the case, the concerned residents would have brought the matters to the attention of the two governments rather than publishing them in *The Norfolk Islander* under the heading "Attention all residents". Another claim is that whilst they appreciate that time is of the essence to get these matters the attention they deserve, World Heritage listing is not something that should be pushed through in haste when there are so many people on the island who have real concerns about the implications of such a listing. I believe it is inaccurate to claim that World heritage listing is being *pushed* through with haste given the extensive community consultation that has occurred over a year and the further consultation which is about to occur with the release of the CMP. I believe that it is easy to also claim that 'so many people on Norfolk Island have *real* concerns about the implications of World Heritage listing'. However, the extensive community consultation that has occurred to date indicates otherwise. As I said before, there was consensus at the recent public meeting of "concerned residents" that World Heritage listing would be of benefit to the whole Norfolk Island community, and some other KAVHA landholders have admitted privately that they have no objection to World Heritage nomination. Another of the somewhat sixteen claims or concerns listed in the paper stated that originally we were told the proposed KAVHA would be managed under Norfolk Island legislation and that no legislation was developed. KAVHA *is* managed under Norfolk Island legislation. The Norfolk Island Government has enacted various legislation under which *it* manages the activities within KAVHA. There is planning, land management, heritage, public reserves, Crown land, subdivision, etc. he KAVHA Intergovernmental Agreement between the Australian and Norfolk Island Governments required the Norfolk Island Government to enact Norfolk Island legislation to establish the KAVHA Management Board as a statutory authority. I think it was clause 25 of the MOU signed in 1994/1995, around that time. Despite this, successive Norfolk Island Governments have indicated I believe a preference for the current arrangements which the KAVHA landholders now object to. The current responsible Norfolk Island Minister myself, has indicated support for developing and implementing specific Norfolk Island legislation and has commenced the necessary communication processes with my Federal counterparts. The Norfolk Island Planning Act and the Norfolk Island Plan made under that Act require planning developments and the like to be referred to the KAVHA Management Board for consideration and comment. This is clearly for *comment* – not *decision*. They give recommendations. Those recommendations need not be taken up by myself. If a decision is to be made on certain issues, that comes from the EPBC Act through the Federal Minister. Originally we were told the proposed KAVHA would be...also I would like to say Mr Speaker that the Australian Government has made it clear that it is not going to vacate the field and allow Norfolk Island, including KAVHA, to be managed *solely* by the Norfolk Island Government under Norfolk Island legislation. That is my firm belief. That is why it applied the Environment Protection and Biodiversity Conservation (EPBC) Act to the island. The Australian Government has repeatedly made it clear that it will not be transferring the National Park to the Norfolk Island Government to own or manage. I myself sought that from the Federal Government as Minister in the previous Legislative Assembly and that was their answer. If they are not going to transfer responsibility for the Park, I believe it is highly unlikely that they will transfer KAVHA.

The Norfolk Island Government – even if it wanted to - has no power by which it can force the Australian Government and the Australian Parliament to repeal the application of the EPBC Act to KAVHA. Another concern was that Norfolk Island, by referendums in 1998, rejected the World Heritage List nomination of KAVHA, as the issues of concern had not been properly addressed. These concerns have not been properly addressed to this day. The Norfolk Island Government initiated the 1998 referendum, resulting in a majority of Norfolk Island voters rejecting the then proposal to nominate KAVHA for World Heritage listing. They did so for a range of reasons that applied then. As previous Norfolk Island Governments have noted, referendums are not binding and I'll state here the introduction of television and mobile phones have proved this. That referendum regarding world heritage nomination was 10 years ago and Norfolk Island circumstances and community attitudes have changed. The Norfolk Island Government and Assembly has since endorsed KAVHA's World Heritage nomination given the economic and other benefits that such international recognition offers the Norfolk Island community. For that reason, the Norfolk Island Government – on behalf of the Norfolk Island community – successfully nominated KAVHA for National Heritage listing under the EPBC Act – which was and is the precursor to World Heritage nomination. Another concern or statement claimed was The EPBC Act which *controls* actions *perceived* to impact on Commonwealth land was extended to Norfolk Island in 1999. This statement is also slightly inaccurate and misleading. The EPBC Act commenced in 2000 giving the Australian Government environment and heritage responsibilities in many new jurisdictions, including Norfolk Island, for the first time. The EPBC Act requires referral of actions that are likely to have a *significant* impact on the *environment* of Commonwealth Crown land, listed threatened species or the heritage values of a listed place. The Act requires the decision-maker to focus on *significant adverse* impacts – not any impact. The Act also requires decision-makers to be satisfied on the balance of probabilities – that is, there must be reasonable proof – not mere '*perceptions*'. For greater clarification there is a website that I provided in this document that is tabled and I have also asked the Secretary to Government to send out soft copies, that is, through email to all the concerned residents that were at a meeting on Tuesday night and they will be able to click onto the www.environment.gov.au regarding these issues. Another claim was that the EBPC Act extends over all land on Norfolk Island. There is no reason why private land should be included in KAVHA. The Act has been used to stop activity on private land. The EBPC Act does not extend over all land on Norfolk Island. It applies to actions only and then only to those actions that have a *significant* impact on the *environment* of Commonwealth Crown land, listed threatened species or the heritage values of a listed place. For it apply to an action taken on land on Norfolk Island you would have to establish that that action would be a *significant* and *adverse* impact on the *environment* of Commonwealth Crown land, listed threatened species or the *heritage values* of a listed place. Most of the land in KAVHA is not private. It is Crown land owned by the Australian Government. This includes Crown land leased to residents. Whether or not land is public or private is irrelevant. The Norfolk Island Supreme Court in the Walden case upheld the current KAVHA boundary by reference to the historical and heritage values of the area within it. Another claim is that in late 2006 landholders requested that their land be excluded from KAVHA. To date there has been no response from the Government. This statement I also believe to be inaccurate and is not directly related or relevant to the World Heritage nomination. Landholders applied under the *Heritage Act 2002* (NI) to exclude their properties from the description of KAVHA listed in the heritage register established under that Act. Even if that register were varied, it would have absolutely no effect on description of KAVHA in the Commonwealth heritage list or the National Heritage list set under the EPBC Act and which provide the basis for the World Heritage nomination. A fact I did mention at the meeting last Tuesday, if you recall Mr Speaker. The Norfolk Island Government has kept landholders fully informed about what was happening with the applications – including media releases, statements in the Assembly and responses to questions on notice. There have also been many phone and personal contacts from landholders to the Ministers on this issue. The court action brought by a landholder prevented the Norfolk Island Government from progressing the applications. The Norfolk Island Supreme Court was asked to address

the same set of issues as the landholders had put before the Norfolk Island Government. This meant that those issues were *sub judice* and could not be dealt with until after the Supreme Court had handed down its decision and the applicants made a decision about appealing that decision to the Full Federal Court. The Supreme Court rejected the applicants' claims. They have apparently decided not to appeal. The Norfolk Island Supreme Court in this case upheld the current KAVHA boundary by reference to the historical and heritage values of the area within it. KAVHA's boundary as Mr Sheridan stated before, has been in place for over 20 years and was agreed to and then endorsed by successive Norfolk Island Governments. Mr Speaker, just as a point of note, those submissions seeking variation to the KAVHA boundary has gone through the Legal Services Unit of the Administration and I have just prior to Christmas signed off on funds to bring in a totally independent heritage assessor for want of a better word in order to start dealing with those, I forget how many offhand, there may be ten, it could be more but those ten submissions that came before me early last year. A Management Plan was to be available last February for public comment and thence approved by the Norfolk Island and Australian Governments prior to KAVHA proposed National or World Heritage application being considered. No Management Plan has been produced. It is expected that the draft CMP will be released for public comment by February 2008. The draft plan will be progressive and will support the ongoing community uses of KAVHA. There will be further extensive consultations on the draft CMP with all of the community, including KAVHA landholders. Another dot point in the letter or the statement made last week was two weeks ago, were that promises were made in 2006 of a precise process leading to listing of the area, proposed wide consultation including comment on issues of concern and definitive undertaking as to the future of the area. The process has not been followed nor concerns the addressed. This statement is incorrect. Residents have had an opportunity to – and have made - their position known since 2006. An extensive process of consultation has been followed. This has included one-on-one meetings with senior DEH officials and one-on-one meetings with NI Ministers and MLAs. Residents can contact NI Ministers at any time to get updates and put their case and raise concerns – as they have done repeatedly since 2006. There have also been numerous media statements, statements and questions in the Assembly keeping residents informed. A series of detailed articles on the implications of World Heritage listing were published over five consecutive weeks of 2007 in *The Norfolk Islander*, each of which invited comments and gave details for Australian and Norfolk Island contacts. There was also as I stated earlier, radio link up with Mrs Ruth Forrest who is present in the gallery today and asking at the end of that for people to contact me or Mr Wally Beadman who is part of the local Committee dealing with the nomination and the committee, I'm not sure if it was initiated by the Chief Minister of the day or if it was Geoff Gardner. A draft CMP is about to be released for public input. The Norfolk Island Government has acted to address those concerns which it can and which are reasonable. The Australian Government Environment Minister has been asked to support changes to Crown land instructions to allow KAVHA Crown landholders to be granted 99 year leases and to allow rural lessees to change their leases to residential and, thereby allow them to apply to lodge building and development applications under existing planning and environmental laws. KAVHA landholders concerns will continue to be addressed within a process which takes into account the overall public interest. That is, the main consideration will continue to be what is in the interests of all in the Norfolk Island community – both now and in the future. Another dot point was the transfer of leasehold land was sought by the Norfolk Island Government in 1999 and subsequently the freeholding of leasehold has progressed. Leasehold land within KAVHA has been excluded. I would just like to comment on that. The Australian Government is the owner of the Crown leasehold land. What it does with its land or who it chooses to lease, sell or gift it to or on what terms is a matter for it to decide – just the same as any other landlord on Norfolk Island. The Australian Government decided in June 2000 to freehold certain types of Crown land and - in effect - gift the land to residents by providing a much reduced price and then agreeing that all proceeds would be paid into the Toon Buffett Memorial Trust to fund community environmental projects in Norfolk Island. A request by the then Norfolk Island Government that all Crown land on Norfolk Island be transferred

to it for it alone to manage and lease would have prevented this. The Commonwealth has stated that the majority of Norfolk Island Crown lessees – including many KAVHA landholders – objected to any leasehold land being transferred to the Norfolk Island Government, with residents writing to the Federal Minister alleging that the Norfolk Island Government could not be trusted with their leased land. It is understood that most members of the “concerned residents’ group are aware of this matter. KAVHA landholders have yet to make any real case as to why their land should be freeholded. It is not enough to simply demand it or to say that ‘you did for one so you have to do it for all’. Why should the Australian Government – which reasonably believes that KAVHA is of local, national or international heritage value and ought to be protected - give away its land in that area? That’s just a question I’m putting as a devil’s advocate type of question. The recent Supreme Court case may have provided the Australian Government with a good reason why it should not give its property to the KAVHA lessees. KAVHA remains jointly managed despite being mostly Commonwealth owned. I’m sorry this is taking so long but I feel that it is important to put these views out there. Another dot point is Lessees not wishing to freehold their land are eligible to extend the lease term to 99 years and to vary the lease status. No such arrangements are available to leaseholders within KAVHA. As KAVHA landholders are well aware, this is being addressed. Leasehold land within KAVHA is managed in accordance with a set of Crown land instructions agreed between the Australian and Norfolk Island Governments. Both Governments had agreed some years ago that leases within KAVHA should be limited to 28 years. However, the Norfolk Island Environment Minister, myself, has written to the Australian Government Environment Minister seeking his agreement to amend the Crown land instructions to allow KAVHA Crown landholders to be granted 99 year leases. I have also asked that Crown land instructions be amended to allow rural lessees to be able vary their leases to residential so that they can apply to build on them and have their building application decided in accordance with the *existing* planning and environmental laws. The final decision is a matter for the Australian Government. It is the owner of the Crown leasehold land. Another dot point is that the Norfolk Island Planning Act is said to control development. However, the rights of landholders outside KAVHA are not extended to those in KAVHA where building rights are denied, unfair restrictions are in place and land is effectively devalued by such impositions. The current Norfolk Island arrangements for planning and development affect all landowners and landholders. The rights of landholders are not absolute or unlimited. The right of an individual to develop their land is subject to statutory rules restricting what they can do when and where on their freehold land – including building residences or more accommodation units. These restrictions on individual rights are imposed because of the broader community and public interest. The same is true for landholders in KAVHA. Norfolk Island Government planning laws have prevented residential and commercial development in specific circumstances, including within KAVHA. People can apply to build on land within KAVHA under Norfolk and Federal environment and planning laws. Each application must be - and is - assessed on its merits. As mentioned above, the EPBC Act requires referral of actions that have a *significant* impact on the *environment* of Commonwealth Crown land, listed threatened species or the heritage values of a listed place. Another thing I’d like to say is that the imposition of planning and environment restrictions and approval requirements can affect land values. This is true for land anywhere on Norfolk – such as when the Norfolk Island Government refuses permission under Norfolk Island laws to develop land or enacts laws restricting development. The Norfolk Island Government is not legally obliged to compensate landholders whose land may be devalued by the laws it makes or the decisions it takes in the broader community interest to restrict development on that land. The same is true for the Australian Government with the application of the EPBC Act across all of Australia or indeed Governments anywhere. At the end of the day, the application of Federal law is a matter for the Australian Government and the Australian Parliament. The Norfolk Island Government has no power by which it can force the Australian Government to allow KAVHA to be managed *solely* by the Norfolk Island Government under Norfolk Island legislation. Again. Another dot point. The “KAVHA Viewshed”, an area of some 500 Ha in addition to KAVHA, has been accepted by the KAVHA Board

and is subject of a nomination to the National Heritage List. The KAVHA Viewshed concept was rejected by the Norfolk Island Government in 1997 but is apparently included in the 2004 draft CMP. This refers to historical information, which no longer has any relevance or effect. The concept of a KAVHA Viewshed was considered in the development of the 1996 Norfolk Island Plan, but was rejected and never became part of that Plan. Both the Australian and Norfolk Island Governments decided some years ago that there was no need for the Viewshed. For this reason, the Norfolk Island Plan has never provided for any Viewshed. The 2004 draft CMP made no reference to the Viewshed and was never adopted. It was and is irrelevant. The Viewshed nomination – if in fact it has been made - was not in fact made by the Australian and Norfolk Island Governments. And this is what people must realise, that nominations can be made by anyone. As people in the various areas around Norfolk Island went through this in 2004 I think, about forty odd portions of land spread throughout Norfolk Island were nominated by people who lived offshore for inclusion in the national register. Many nominations are rejected. The nomination was not included in the assessment plan by the Australian Heritage Council or the Australian Minister for the Environment. As noted above, both the Australian and Norfolk Island Governments decided some years ago that a Viewshed was not required. Another dot point here that says, KAVHA is managed by a non-statutory Board with significant powers, including an ability to seek backing of the EPBC Act. KAVHA – despite being comprised largely of land owned by the Australian Government - is jointly managed by the Australian and Norfolk Island Governments in accordance with the 1989 / 1994 Intergovernmental Agreement. That Agreement sets out an arrangement whereby both Governments - acting through their representatives on the Board - develop and agree on annual restoration, maintenance, and interpretation programs and expenditure for these programs. Those programs are then implemented by the Administration – primarily through the Restoration Team. Under this arrangement, both the Australian and Norfolk Island Governments have injected millions of dollars of funding into the Norfolk Island economy over the last 20 or so years to preserve a site of national and international heritage value and which features in Norfolk Island marketing and promotion strategies. Each year the KAVHA Board approves a budget that pays some \$500,000 in wages to Norfolk Island residents. The Board is made up of two representatives appointed by the Norfolk Island Government and two appointed by the Australian Government. The Board makes decision by consensus – that is, *all* members *must* agree before a decision is made. In terms of development and building applications, the Norfolk Island Planning Act and the Norfolk Island Plan require planning developments and the like to be referred to the KAVHA Management Board for consideration and comment. The Board then has 28 days – just like anyone else - to make a submission to the Norfolk Island Planning Minister in relation to the development or building application. The Minister is not required to accept the Board's advice or views. Residents can also challenge the Minister's decision in the Administrative Review Tribunal (ART) or the Courts. The Board has nothing to do with the EPBC Act. That is a matter solely for the Environment Minister and the Department of Environment, Water, Heritage and the Arts. The Act applies and operates completely independently of the KAVHA Board. It does not rely on the Board for its operation. They claim that Meetings appear to be "secret business" and landholders are denied access to minutes or representation on the Board. This statement is also I believe misleading and incorrect. The Board is made up of two representatives appointed by the Norfolk Island Government and two appointed by the Australian Government. As such, the Norfolk Island community has two representatives on the Board that can and do represent community and landholders' interests, who landholders can and do contact and who can and do put residents' and the community's view. The Board also makes decision by consensus and must agree before a decision is made. As I've said before, in dealing with development and building applications, the Board makes a submission to the Norfolk Island Planning Minister in relation to the development or building application. That submission - which sets out all the reasons for the Board's position – is included in the papers that go to the Norfolk Island Planning Minister and is available to those seeking the planning and building permission. As mentioned above, the Minister is not required to accept the Board's advice or views. Residents can also challenge the

Minister's decision in the ART or the Courts. And if they do so, any recommendations would become available to the application, any decisions or comments given by any board on that decision making process or recommendations to the Minister for the Minister to make a determination would become available. The KAVHA CMP must be endorsed by the Australian and Norfolk Island Governments – not just the KAVHA Management Board. Continuing with the claim that the Board makes decisions that severely impacts on people and their heritage. This statement is incorrect. The KAVHA Management Board is an advisory body only. It has no legal capacity, powers or functions. This means its decisions are not binding. Under the current arrangements, all it can do is to advise Government, which is free to accept or reject that advice. It cannot prevent a development or commercial activity from proceeding within KAVHA. This power rests with the Norfolk Island Government under its planning and land use laws or with the Federal Environment Minister in those cases where the EPBC Act applies. As mentioned above, the development and building decisions are generally made by the Norfolk Island Planning Minister – not the KAVHA Management Board which merely provides advisory comments and recommendations that are not binding. Indeed I would like to know what decisions have in fact been made by the Board that have in fact severely impacted on people's heritage? The only decisions referred to date have been decisions by the Federal Environment Minister and by the Norfolk Island Planning Minister to refuse an application to build or develop land in KAVHA. Yet these decisions have nothing to do with the Board. No one has the right to develop their land as they see fit. On Norfolk Island the right of an individual In any event, how have those decisions "severely impacted on heritage"? No-one has the right to develop their land as they see fit. On Norfolk Island, the right of an individual to develop their freehold land has long been subject to statutory rules restricting what they can do when and where on their freehold land – including building a residence or more accommodation units. These restrictions on individual rights are imposed because of the broader community and public interest. This is true for land outside of KAVHA as it is for land inside KAVHA. A further dot point. There were also sweeping variations to policies in KAVHA, in some cases complete policy reversals have been experienced. Surety of title and ability to develop within stable acceptable community constraints are integral to land management but lacking in KAVHA. Policies in KAVHA have been no more inconsistent and 'unstable' than the various Norfolk Island Government policies that apply outside of KAVHA or more generally on Norfolk Island. For example let's just talk of the reviews and amendment of Norfolk Island planning laws and policies every five years or in some cases, even more frequently. Surety of title is irrelevant. Surety of title is not affected by heritage and planning laws. These only govern what can be done on the land, not who can own it or who it can be sold to. KAVHA landholders have the same surety of title as landholders outside of KAVHA. What constitutes 'acceptable community constraints' is a relative concept. The "concerned residents" appear to feel that their demand of being able to build what they want, where they want despite the impact is 'acceptable'. The Norfolk Island Government must take into account the broader public interest of the whole community. They claim that the rights culture and traditions of Norfolk Island residents are integral to the community. The current application of the EPBC Act erodes these important concepts and contradicts the preamble of the Norfolk Island Act. This appears to be a sweeping statement about the application of the Federal EPBC Act to all of Norfolk Island, not just to the 20 or so landholders in KAVHA. If that is the case, the concerned residents should address their contentions to the Federal Parliament, which enacted and is responsible for the EPBC Act. However the assertions are not supported by any evidence, so that any approach to the Commonwealth would need to establish just how the EPBC Act has eroded the rights, culture and traditions of Norfolk Island residents. This would involve several steps:

- (i) put forward a detailed case – backed up by evidence - showing that there is in fact a longstanding cultural right to build what you want where you want and how you want or to an absence of any regulation;
- (ii) show how that the application of the EPBC Act has in fact eroded that existing and proven cultural right or tradition;

- (iii) show that the overarching public interest requires that cultural right or tradition not be so eroded.

There is no restriction in KAVHA on the transfer of freehold land. Nor is there any proposal to resume freehold land. However, if there was, compensation would be required. Crown lessees do not own their land. They only rent it. There is no proposal to not renew Crown leases in KAVHA when they expire. However, if there was, lessees would have to be compensated for any 'improvements' made. In any event, Norfolk Island Ministers have asked the Australian Government to allow for 99 year leases and for rural leases in KAVHA to be varied to allow residential development. There has not been - and is not - any cultural right to build what you want on Norfolk Island where you want and how you want or to be free of any regulation. This is particularly the case for Crown lessees who do not own the land they rent. Another point is the rights culture and traditions of Norfolk Island residents are integral to the community. The current application of the EPBC Act erodes these important concepts and contradicts the preamble of the Norfolk Island Act. Sorry Mr Speaker this is just continuing on, it is just the way my computer was formatted. It should be noted that the National Heritage listing of KAVHA expressly acknowledges the culture and traditions of Norfolk Island including: (1) KAVHA is a place of special significance because it has been continually and actively used since their arrival as a place of residence, work, worship and recreation. KAVHA is uncommon as a place where a distinctive Polynesian/European community has lived and practised their cultural traditions for over 150 years. Another dot point is that Europeans were not the first people to inhabit Norfolk Island. Finds of stone tools have been made at both Emily and Slaughter Bays within KAVHA. Archaeological investigations have revealed evidence of landscape modifications in the Emily Bay area including artifact assemblages and structural remains which have been interpreted as a rudimentary marae, a religious structure characteristic of East Polynesian culture. Radiocarbon dating indicates Polynesian settlement of the area occurred between AD 1200 and AD 1600. Another dot point of concern. The EPBC Act provides an ability for the Norfolk Island Government to enter into Bilateral Agreements. If the Government is not prepared to reject the EPBC Act, it should enter into such an agreement over KAVHA to ensure local based management of the area for the future. The Norfolk Island, even if it wanted to, can only enter into a Bilateral Agreement with the Australian Government if the Australian Government wants to enter into a Bilateral Agreement. The Norfolk Island Government has yet to decide whether a Bilateral Agreement would be in its best interests, particularly in relation to probable cost increases. Australian Government representatives have advised that it will not enter into a Bilateral Agreement with the Norfolk Island Government. (1) To enter a Bilateral Agreement, the Australian Government would need to be absolutely certain that the Norfolk Island Government would *at all times* act appropriately to protect values that the Australian Government regards as important nationally and internationally. Yet the landholders are in effect asking the Norfolk Island Government to enter a Bilateral Agreement to remove protections and allow them to undertake actions that the Australian Government would regard as being at odds with those values. (2) The Australian Government is simply not going to vacate the field and allow KAVHA to be managed *solely* by the Norfolk Island Government under Norfolk Island legislation. The Australian Government has repeatedly made it clear that it will not be transferring the National Park to the Norfolk Island Government to own or manage. If they are not going to transfer the Park, I certainly believe they are certainly not going to transfer KAVHA. (3) The Australian Government, and the Australian Parliament, has repeatedly made it clear that it is not going to agree to anything that in its opinion will risk KAVHA's heritage values. This includes agreeing to waive what it sees as fundamental protections for KAVHA, such as those provided by the EPBC Act, in order for a world heritage nomination to proceed. Another dot point concern was that it is essential to overcome a complete lack of development clarity. An outline of permissible actions needs to be defined to allow KAVHA landholders a clear understanding of restrictions in relation to their property. I would just like to note that the same amount of 'development clarity' exists in KAVHA as exists outside of KAVHA. The same planning and building standards apply. It is the impacts that vary, depending on what you are building and where and

how. Each application has to be assessed on its merits once an application is lodged. Landholders outside of KAVHA are not entitled to be provided with 'an outline of permissible actions' under each and every Norfolk Island planning and environmental law. The same holds true inside KAVHA. Another was a request that the KAVHA Management Board must negotiate acceptable outcomes. This is the responsibility of the Norfolk Island and Australian Governments. It is not the KAVHA Board. The Board only makes comments on certain development applications. Dot point one of the last three dot points, was that the use of Kingston has been traditionally forthcoming to the Norfolk Island community in the past. A definitive guarantee to the community that such usage will continue under both National and World Heritage listing, as proposed, is essential. The Australian and Norfolk Island Governments have both said repeatedly that traditional community uses and activities within KAVHA will continue. This is again acknowledged in the National Heritage listing of KAVHA. The CMP, to be released in a few weeks time, will also reflect that. For the past 25 years, neither the Australia nor the Norfolk Island Government has prevented community access and use. There is no intention, nor any proposal, for this to change. Finally, the request that the proposal to include any of Norfolk Island on the World Heritage List (must) be postponed until concerns have been satisfactorily addressed. KAVHA's World Heritage listing cannot be postponed indefinitely. The only way it is going to succeed is if it is part of the Serial Convict Sites Nomination. The Nomination's target date is a listing decision in mid 2009, which requires nomination in 2008. There has been and is a consultation process that involves the landholders. That consultation process will continue with the imminent release of the draft CMP. Concerns that have been raised to date have been heard and the Norfolk Island Government is taking steps to accommodate those that are reasonable and which it reasonably can support or get a result on. For example, seeking to have crown land instructions amended to allow holders of rural Crown leases of land falling within KAVHA to vary their leases to residential and thereby have the right to apply to build on that land. I have taken up with them – and will continue to take up – individual landholder concerns with the Commonwealth on a case-by-case basis. Freehold KAVHA landholders can apply to build *now* and have their development applications considered under Norfolk Island and/or Federal planning and environment laws. The same is true for KAVHA lessees granted a residential lease. The issue is whether that development will have a *significant* impact on the *environment* of Commonwealth Crown land or the heritage values of a listed place. The Australian Government - which owns most of KAVHA - will not allow residential or commercial development to occur within KAVHA that is assessed as being reasonably likely to adversely affect the site's listed heritage values in a *significant* adverse way. This is an immutable fact. It has been true for the past 20 years and I believe will be true for the future. This means that KAVHA landholders' 'concern' to have current restrictions removed and to be able build what they want, where they want and how they want will not always be 'addressed' to their satisfaction. Mr Speaker I thank you for your time and the time of my fellow members for that lengthy response to KAVHA landholders that was raised in the paper. I think I've made it extremely clear on the stand taken on those issues. I've also stated that I'm prepared and I continue to prove that I'm prepared to put forward landholders issues on a case by case and in the broad range also in regard to the general lease type arrangements but I'm not prepared and I certainly will not support a motion to hold back the World Heritage Listing nomination from proceeding. I would just like to give advance warning that at a suitable time, and if you can let me know, I have an amendment that will go forward, that I would like instead of Mr Sheridan's motion if you could tell me the time I will put forward an amending motion. Thank you

MR NOBBS

Thank you Mr Speaker and thank you Mrs Jack for outlining the answers to a lot of those queries that were in the newspaper and giving a bit of amplification on the process that has been a major part of your work down here, and I actually would like to provide some support to Mrs Jack in that I know she has personally gone to the enth degree to address many of the issues that many of these landholders have come to see her about and I know that she has had no hesitation to discussing with the many levels associated within the Australian Government. World

Heritage listing is an Australian nomination and it compliments a listing of ten and in my view I would think we are therefore not in so much of a position to stall or halt this nomination however, we may be in a position with perhaps the amendment that Mrs Jack may bring forward in a while that many of us have sat around the table discussing including the Minister who is absent today. We may be able to pursue some further considerations over the boundaries of KAVHA and that may be in the case of a working group or something along those lines however, as Mrs Jack has pointed out, many of the issues such as specialised planning requirements or things like that that are assumed to apply to KAVHA do not. There is probably through the Planning Board and areas like that which the KAVHA Board does have the ability to comment on, as does anyone else in the community if they see a DA application on someone's property. That basically is all I've got to say except that obviously the CMP has not gone to the schedule that we had hoped and obviously not to the schedule that the Australian Departments have been working on it with us would have hoped, and so at the earliest time that the CMP is available we will be making it available for public perusal, comment, so that we can ensure that we have addressed everyone's issues. I am aware that Terry Bailey has made himself available on many occasions to discuss people's issues in the KAVHA area and I know there's been public meetings, the one on one's and also the ability of the representatives of the landholders to meet with him and with us I should point out as well and I think most people would have seen Terry Bailey's response to Mrs Jack, I think it was published in last weeks paper and I'll just paraphrase one paragraph out of that, and it just backs up what Mrs Jack said earlier, and the paragraph reads "firstly I would like to confirm that the boundary that will be used for the purposes of the World Heritage nomination is the KAVHA boundary. This boundary is being used to ensure there are no new layers of management or Administration and because it will provide the World Heritage nomination with the greatest possible chance of success". Thank you Mr Speaker

MR SHERIDAN

Mr Speaker can I have a further say please. Mr Speaker I just thought there was going to be a bit more debate about it, and I was just waiting for other people to talk but in just listening to mainly the Minister's and Minister Jack's reply, like I said in my statement there are 101 things that need to be considered. Prior, well it certainly won't happen prior to the nomination by UNESCO for the World Heritage on the first February I believe. I'm not that stupid to realise that we are going to halt that. I understand, that that nomination will go ahead on the 1st February. The only thing that I'm asking in my motion there is that at this point in time, and until we get CMP ratified by both the Australian and the Norfolk Island Governments is that this Legislative Assembly on behalf of the Norfolk Island residents do not fully support the nomination. When that CMP has been ratified by both the Australian and the Norfolk Island Governments I would only be too happy to put a motion in this House to state that, this Legislative Assembly on behalf of the residents of Norfolk Island fully support the nomination to World Heritage and that means then it can go along with everybody's support. I know prior to July 2009 when the inscription of nominations will be ratified, they can't be inscribed until one thing, they have a Management Plan in place so obviously a CMP has to be in place prior to July 2009 and this is where the Minister alluded to that we have something like eighteen months to get our House in order. All I'm saying is this CMP has been reviewed over the years, many times but they have not been able to come to an agreement and ratify a new CMP. This I do not want to be seen to drag on. I don't want to see us in 2009 still not having a workable CMP and this is where I suppose my motion is about putting pressure on people who are constructing the CMP to get there.....yes I was going to say that, to get their A into G as you might say, and get moving on it and the second part of the motion and as the Minister has already indicated, she's quite willing to talk to these agencies specially with regard to the KAVHA boundaries, and I believe from another one of my colleagues, from a telephone call last week that Mr Terry Bailey, the Assistant Secretary of the Heritage Assessment Branch, has indicated that he would be willing to talk. Now whether or not these are amenable discussions or not, he has indicated that he would be willing to talk about the landholders concerns with regard to the KAVHA boundaries. The Minister has already

undertaken that she's quite happy to do that. That's just one of the issues. So in regards to my motion, number B. the Minister has already agreed to do. As for number 1, it's a catch 22. It can't be inscribed in July 2009 until we have a workable CMP in place. What that paragraph a. was about, was to pressure the people who are doing this new CMP to get a move on so that the landholders, the residents of Norfolk Island can view this draft, make their comments known, and get this CMP up and running well prior to the inscription day of 2009, like I said, I'm not trying to stall the World Heritage listing. That will go ahead. I'm quite happy for it to go ahead. What I'm trying to do is to get this CMP that has been on the table for years, the last Legislative Assembly or the Chief Minister some time during that term in February last indicated that the draft CMP would be on the table in March April of last year. It still hasn't happened. Will it happen with this one. Last month the CMP was supposed to be on the table in mid January. Now the Minister tells me it should be up by February. This is what I'm trying to avoid. I'm trying to put pressure onto people concerned to get the draft CMP out to the public so that everybody can have a look at it, everybody can have their say, then it can go back to a final consideration and then it will be up and working and that's all I ask. I don't ask for stalling of the World Heritage listing. All I ask is that we don't fully support the listing until those two things are achieved and as I say, at this point in time, so we can all still support it but at this point in time, until those checks and balances are in place, like I said, I would think it is everybody's responsibility here to look after the people that they represent, not to support this until those things are done, and that's my final say in the matter Mr Speaker

MRS JACK Mr Speaker I will continue to support the World Heritage listing as is. I appreciate anything that Mr Sheridan has been saying but holding it back or failing to support it, I would be derelict I think in my position and in the fact that I've supported the Strategic Plan and that in itself has supported this nomination going ahead. It's almost shooting oneself in the foot if all of a sudden you withdrawn support that I've stated is there so the desire for the necessary vehicle for the board for the Governments to get a moves on for finalising is in the fact that, that deadline is in 2009, it is self perpetuating. That's the impetus and it is something that we are all terribly aware of because none of the involved parties want to jeopardise that process so if I may, Mr Speaker just seek leave now to put forward the amendment to the House to Mr Sheridan's motion

SPEAKER thank you. It is my privilege to determine whether there shall be an amendment. Mrs jack I do grant you that

MRS JACK Thank you very much Mr Speaker. Mr Speaker I move that after the first 'that' occurring, the words 'this House resolves to request the responsible executive member to write to the appropriate Minister in the Australian Government requesting consideration of a review of the KAVHA boundaries

SPEAKER Debate on the amendment Honourable Members

MR SHERIDAN Mr Speaker I certainly won't be supporting the amendment because that goes a long way from what I'm trying to achieve. The amendment would only address one concern of the landholders and I don't believe it's just the landholders who have concerns in this instance. It's the community of Norfolk Island whether they live around the KAVHA area, whether they live in Ball Bay, Steeles Point, Cascade, Anson Bay, five kilometres away or even on Philip Island, Barney Duffy's, out there on Philip Island hiding away, it only addresses one point and I certainly will not be supporting that, especially since the Minister has already agreed that she would take up dialogue with the Australian Government to do exactly that to move along those resident's concerns in KAVHA. I don't believe it's just KAVHA residents that we have to support here. We are supporting the whole community of Norfolk Island and this is why I would like to see the original motion stand Mr Speaker

MRS JACK Mr Speaker the reason for this meeting to list one of the two is that the Conservation Management Plan the consultation, is automatic, the listing of it in national papers as well as the local, I'm not sure if it's just one or both of the papers that are available on Norfolk Island, statutory requirements, the month long consultation process and the presence of DEH on the island to also answer questions is a given. That has got to happen and what doesn't have to happen is me to continue dialogue and I'm saying I have no problem in continuing dialogue with the Commonwealth on variations or consideration to be given. That's it Mr Speaker. I'll leave it there

MR CHRISTIAN Thank you Mr Speaker, I think it's important for the community in Norfolk Island to know where each individual Member stands on this issue. I can't support Mr Sheridan's motion in its current form. I totally support World Heritage listing but I also support the wish of KAVHA landholders to be able to vary their boundaries so that's where I stand and I don't place much emphasis on the Conservation Management Plan being necessarily out for public comment before the heritage listing, for either World Heritage listing process commences and the reason or that is that World Heritage listing one would imagine would be around for a long time if it was successful and the Conservation Management Plan

Will no doubt be amended on many occasions so the plan that goes out to the community today or tomorrow or sometime in February will not necessarily be the plan that's in effect in ten years time or so, but World Heritage listing will still be there so I see them as totally different issues. Mr Speaker I think it's fair to say that I've never met a Member of any Legislative Assembly that wouldn't be prepared to go into bat for KAVHA landholders to a) have the KAVHA boundaries redefined in a sensible manner and I don't think I've ever met a Legislative Assembly Member who wouldn't support compensation of some form or another being paid to landholders within the KAVHA area where they've been denied the ability to basically enjoy their property. They are all moral causes and I support them, but at the moment I wouldn't support Mr Sheridan's motion to delay the World Heritage listing. I understand where he's coming from, that the Australian's will nominate it no matter what, but I would like to be there with them on that date. I had voted against Mrs Jack's amendment, I've voted against it being heard and I voted against it on the basis that I really wanted this question put to bed once and for all, but if we are going to deal with the amendment I would support Mrs Jack's amendment

SPEAKER Any further debate on the amendment Honourable Members. There being no further debate on the amendment I put the question that the amendment be agreed to

QUESTION PUT

Madam Deputy Clerk could you please call the House

MR SNELL	NO
MR B CHRISTIAN	NO
MR SHERIDAN	NO
MRS JACK	AYE
MR N CHRISTIAN	AYE
MR NOBBS	AYE
MR GARDNER	AYE
MR ANDERSON	AYE

SPEAKER The result of voting Honourable Members, the Ayes five, the noes three therefore the amendment becomes the motion

I therefore put the question that the motion as amended be agreed to and the motion is now That this House resolves to request the responsible executive member to write to

the appropriate Minister in the Australian government requesting consideration of a review of the KAVHA boundaries and I seek debate

MR GARDNER

Mr Speaker events seem to have overtaken my desire to want to speak earlier hence my desire to want to speak now, and I apologise for that if there's any offence taken. Certainly none was intended. Firstly might I say that it is important that all of the arguments be heard one way or other in relation to the matter and many of my comments, relate to certainly the initial motion which has been dispensed with but equally relevant to the amended motion and the process that has been followed and to ensure that people are very clear on my intent and why I am supporting the revised motion in its current form. Talking about the disclosure of information and making sure that everybody is being heard, I was grateful to Mr Ron Nobbs for providing me the two documents last night via email which I printed off this morning and read with interest. One of those is a supporting document I understand when some Members of the Legislative Assembly met with concerned KAVHA landholders last week and a document which was provided to them and I see nothing in that, that would or should prevent me from tabling in the House today so clearly it is a public document, so that everybody has an ability to access that document to understand I guess the additional arguments that the concerned landholders have put up to Members of the Legislative Assembly, to the Minister of the Commonwealth and suchlike so I table that. The second document which was provided to me by Ron is further arguments that have been developed and I think arose as part of the press releases that were published in the Norfolk Islander last weekend including the response from Mrs Jack to concerned residents and also a response to Mr Terry Bailey the Assistant Secretary of the Department who is charged by the Australian Government and that Department obviously with responsibility for carriage of the nomination process, the development nomination process for the serial listing of Australian Convict Sites one of which is the KAVHA convict site and I table too that document because I think it's important that everybody have access to that information. But maybe just some additional comments. The current process that we are under for wanting to participate in the inscription of the KAVHA area as part of the serial listing of world heritage lists began almost two years ago and how do I know that, because I was at the forefront of those preliminary discussions, having attended the Commonwealth games in Melbourne I jumped across the ditch to Tasmania with no disrespect to Tasmania and had a meeting with a number of interested parties in wanting to reignite the discussion on World Heritage listing and the process and I was very pleased that Norfolk Island was invited to attend. It was in Melbourne. It was a simple process to attend in Hobart for those discussions. During those discussions I made it very very clear that some eight or nine years earlier there had been a referendum on the island, we had been through the process, there was general feeling of dissatisfaction with the process that had been run, as far as consultation with the community, insufficient answers provided to the communities concerns about what the impacts of World Heritage listing might mean, and that same proposal I might add for World Heritage listing for inscription on the World Heritage list was in the same context as it has been made today, in other words, it was part of a bigger group, it was a serial listing for convict sites but I made it very very clear then to all the parties involved and to the Commonwealth in particular, that if you wanted to take the Norfolk Island community with you, there were a number of steps that you had to be sure that you took and the most important single one of those was the consultation process and an adequate consultation process. We had extensive discussion on how that was going to be achieved and they were very much aware of that. And as a result, to cut a long story short, over the ensuing months, a process was established to ensure that appropriate consultation would take place, not just with the Government, not just with the KAVHA landholders, not just will Members of the community, but because this is a world listing and its given status above and beyond that which is simply that which is contained in our territorial boundaries, or Australia's territorial boundaries, this is out on the global scale, it was important to make sure that everybody that was possibly going to be involved in this process an opportunity to have a say. Certainly up until the time of my demise as the responsible Minister in June 2006,

I was very comfortable with the process that was being run, there was a consultative committee that was established locally as was required in all the other jurisdictions in relation to each of the other ten sites, there was a national consultative body which was loosely formed around those persons who were involved in those initial discussions in Hobart, in March 2006 and there was a need for a specialist group which was established which included officers of the Department of Environment and Heritage and others to undertake extensive consultation within the Norfolk Island community. I think it's fair to say that there has been extensive consultation. Whether it's sufficient to satisfy everybody, I don't know. Some would expect to have somebody on their doorstep twenty-four hours per day, seven days per week, 365 days of the year. Now that simply is not possible. But I think that all of the parties involved in promoting this exercise have been very conscious of the need to try and ensure that they do address people's concerns. But having discussion on people's concerns, and achieving a satisfactory outcome that's going to meet all expectations, of all the parties, frankly is just never going to be achieved. I don't think it's ever been achieved in any other site that I'm aware of. There are always going to be people who will feel that they have been disenfranchised, whose concerns haven't been heard, but that is entirely no different to the process that we go through, for example, the one that the Minister for the Environment's recently initiated as far as the review of the Norfolk Island Plan is concerned, as a previous Environment Minister, I know the difficulties that many people in the community had with consideration of the Norfolk Island Plan and planning environment that we brought into place or certainly passed legislation in 2002 and I think it wasn't commenced until about 2004, but there are a lot of people who made representations about maintaining, or actually revisiting a much more flexible planning environment in Norfolk Island that would allow you to do whatever you chose to do, and let's face it, in years gone by that was what happened. And they didn't get their way by the development of the Norfolk Island plan is the point I'm trying to make so we haven't got the flexibility that those people wanted. By the same token there were other people and notable conservation activists I think is probably the right word, who indeed wanted us to make things even more difficult as far as our planning environment was concerned and basically shut down all development forever on Norfolk Island and they didn't get their way, but there was a general consultation process that was undertaken, yes people were listened to, but I think everybody accepted that at the end of the day not everybody was going to get everything that they wanted but in saying that, with the KAVHA listing and the place of the KAVHA landholders there are a number of options they are able under legislation, under the legislative environment, not just Norfolk Island's but the Commonwealth's legislative environment, and in particular I refer to the EPBC Act of 1999 and its subsequent amendments and additional provisions that have come into force and in particular those relating to national heritage listing which didn't come into force until about 2004 but there are a number of provisions under all of that raft of legislation that allow people to make application to do things and some of those landholders have followed the appropriate process. Some of them and I speak for experience on the KAVHA board have had planning issues, have made application through the Norfolk Island planning regime, they've been referred to the KAVHA Board and I need to emphasise the KAVHA Board is only an advisory body it's not a decision making forum, it provides advice and on a number of those applications as a KAVHA board member I've gone into bat for those landholders whether it's additions to buildings overlooking cemetery bay, the construction of a new house up on Rooty Hill Road, or other developments within the area, and so long as the applicable guidelines are met and the assessments on the impacts are deemed or determined not to have a significant impact, and these are the words that come out of the EPBC Act, the KAVHA Board has never had an issue with it. And so they've gone through the process and they've successfully been able to do extensions or build houses or whatever the case may be but the closer you get to these walls the more difficult it becomes. There's absolutely no doubt about that and whether the boundary runs along the back of this stone wall out here, will not make one iota of difference to how the landowners enjoy the peace and quiet and enjoyment of their block of land. Not because of a particular Norfolk Island planning provision or piece of legislation although it recognises the EPBC Act but simply because

of that Act and that Act in the law book Mr Speaker that I went down to my office earlier to pick up was explained and as I understand it, circulated to Members of the community at one time, and was put out by the Department of Environment and Heritage and it was entitled "What the Environment Protection and Biodiversity Conservation Act means to Norfolk Island" and it clearly states in there and this is contrary to some of the information provided in those papers that I tabled earlier, but it does mean that the EPBC Act has affect on things other than Commonwealth land and I know one of the arguments that's been run is that all of the Commonwealth land should be transferred to Norfolk Island and then the EPBC Act wouldn't apply. The EPBC Act would still apply, even if all the Commonwealth land was transferred to the Government of Norfolk Island or made freehold, simply because the place is listed on the National Heritage List, it is currently listed on the Commonwealth Heritage List, but that can only happen in relation as I understand it to Commonwealth land, but it's on the National Heritage List but it's also been determined under the Environment Protection and Biodiversity Conservation Act that this place is a place of national environment significance or national environmental significance and as such, it doesn't matter what the tenure of the land or who owns it, the application of the EPBC Act will stay there until such time as the Commonwealth Government decides that its not necessary that that happen any more and I can't see that happening. That's my own view. But it talks about some of the processes and I think that's where some of this confusion arises and I'm very very sympathetic because I know, if I was in the shoes of these landholders I probably would be just as frustrated but there is a guidebook. There are people available to talk to. There are issues. We've got the issues on the table and we can resolve them but as far as the listing for world heritage that's not going to have an impact at all in my view on any of the activities that people feel as though they are unable to enjoy on their block of land. This booklet explains, how do I know if an action is likely to have a significant impact, and what I mean by that, is that some of it can get very confusing. Under the EPBC Act, if something is going to have a significant impact the onus is on the applicant or the person who wants to develop something, to go to the Commonwealth and seek – I'm not sure what the right word is but almost approval, but it has to have a significant impact and you can go through that process and it needs approval, and if something is approved, now the Commonwealth Minister can say, yes that's fine or he can say it requires a referral and that's when all of the other provisions come into being. If somebody wanted to do something that the Federal Minister decided would have a, and from advice, he gets advice from his counsel or I think it's still called the Heritage Commission Counsel, but he gets his advice from them on his assessment as to whether this thing should just have automatic approval, in other words, an assessment's been made that it won't have a significant impact, if it does, then it is still a process that needs to be followed, the Environment Impact Assessments etc and at the end of the day a decision gets made. Yes you can do it or no you can't do it and that is the environment within which we live and some people as I was saying earlier, have gone through that process as well and they've subjected themselves to it, they've made the representations, as I understand it in some instances they've had legal representation made and been through the process and at the end of the day, at the end of the open and very transparent process which allows anybody to be able to have a look at the information contained in the proposal or referral, a decision is made and that's where it lies. That will never be removed. I think we have to understand that. Those provisions are there as long as the Commonwealth Government, the Australian Government continue to maintain the EPBC Act and its provisions and its application in Norfolk Island etc etc etc. Now there's been some arguments that the Norfolk Island Government weren't consulted about the introduction of the EPBC Act in its application to Norfolk Island and others saying that we didn't respond when we were asked about it. We were certainly consulted. If I recall I certainly don't have a copy of the submission with me but that document may have run to I am hazarding, maybe 100 to 150 pages. An expensive submission that was made in relation to the application of the EPBC Act and the argument that we ran at that time and it was about 1998 or thereabouts, because it was certainly before the Act came into being in 1999 but we argued that our planning regime in Norfolk Island was substantial enough to provide all of the protective measures and

mechanisms to satisfy the requirements of the Commonwealth as far as Environment Protection and Biodiversity Conservation protection that they required. We didn't win that argument and we don't always win those arguments with the Commonwealth but certainly we did go into bat so we had to turn our mind to how we could live within the new regime that was in place, and it did have an impact, not just in 1999 but additional provisions, legislative provisions that have been enacted since then have had additional impact on the area and that is a valid concern of all landholders and all people on Norfolk Island as to just whereabouts will the line be drawn in the sand in years to come. I don't know that. We don't know that. We can make representation to the Commonwealth on those issues and representation has been made and answers have been given, I think it is fair to say that in their mind they don't know how far its going to go. They talk of the second nomination for National Heritage Listing that might incorporate a viewshed is something in the back of my mind that that may have been correct, I'm not certain about that, but I think that Mr Sheridan might have given some advice earlier that in checking on the website today it's something that's been nominated, that's its current status and so it has to be assessed and in due course will be dealt with. We've had a raft of those types of nominations, not just to the Commonwealth Heritage list and the National Heritage List but before that in relation to the Register of the National Estate. A lot of places were inscribed on the register of the National Estate in years gone by. A number of places as I understand it in Norfolk Island are inscribed on the Commonwealth Heritage List including KAVHA and I think including the National Park, the Botanic Gardens and I'm not sure about some of the reserves, I mean that's only the detail, but there are a number of them is the point I'm trying to make. The National Heritage List, the Commonwealth Heritage List, and previously those places inscribed in the Register of the National Estate all followed a process for nomination and as I understand it now, for particularly National Heritage Listing, anybody, any person, I think the point was made earlier, is free to nominate any place, any site, anywhere for inscription on the National Heritage list. But it's not just a case that because somebody has nominated it, that it's going to happen. It has to go through a full assessment process. That is no different to the assessment process for World Heritage listing. Just because it's been nominated doesn't necessarily mean that it's going to be inscribed because it must meet the heritage values, in other words, it's got to get at least to the same level as the bar that world heritage listing requires you to meet, preferably over it, before you can get a sniff at it and they are heritage values that are determined on a global basis. I mean we've got a pretty special site down here and I think we all understand that and we all embrace it. The issues that the landholders have are real. There is absolutely no doubt about that and in my years on the KAVHA Board which some have referred to as a secret society, I don't think that that's an issue, certainly if anybody has ever rung me or wanted to talk to me about KAVHA issues when I was sitting on the KAVHA Board, I never ran away from them. I was always happy to talk to them. When I established the local consultative committee it was trying to get a broad section for this process that we are currently going through. It was an attempt to try and get the broadest range of input into the process as I possibly could and I said, well the Norfolk Island Government is not just going to run off and do this because a sector who has a significant interest in the site is the Commonwealth. I asked the then Administrator of the time if it would be possible for the Deputy Administrator or the Official Secretary as he was if he could join that committee to represent the Commonwealth's interest. I think myself and David Buffett as KAVHA Board Members were both on that consultative group representing the Norfolk Island Government's interest, and why those two was simply because the site was something what we both had a tremendous amount of experience with. We got the Project Manager simply because of the need to understand the daily workings of it, as we worked through this process. Wally Beadman came on board because there was a preparedness by him to utilise at his expense, his resources, to get the information out there, and I think to Wally's credit, he has tried, his very best to get the information out there but he's not the body or the person who is responsible for answering the questions, and obviously a very important component in the consultation process and in establishing this committee was getting a representative of the landholders and Alan Bataille was asked to be on that and

was very happy to be a part of that and that was designed to ensure, because I know that he was a repository for concerns by landholders, he works in the Registry area, it made perfect sense to have somebody that's at the cold face who by the way also happened to be a landholder to participate in that process so you know, the things that we've been through haven't been done secretly. Yes there's criticism about how often that committee has met. Well it's probably not fair for me to say it, but I will say it, I didn't have control of that process after my demise in 2006 and yes, it probably should have been more active and more embracing in the concerns/ I understand that the Department for the Environment and Heritage, and I spoke with Terry Bailey on Thursday of last week about some of these issues, and I implored him to make sure that the Commonwealth did meet with concerned landholders and addressed some of these issues and I am in the knowledge that they have met with him, one on one. I know some of the paperwork says they didn't want to have a public meeting, or didn't want to meet with him as a group as a whole because sometimes it's easier to just work one on one because not everybody's issues are the same. I think that's very clear in this issue, but what I've said to him is look, you'd better come back here and you'd better have another chat before this thing just gets totally out of control. These people are desperate to know where they sit from here on in. they have very legitimate concerns and in saying that, that's what I'm trying to encourage today is that the Commonwealth, somebody said, get off their butt and actually get out there and talk to these people, bearing in mind though, the words that I said before, just because you've got a gripe, just because you can't build a house on a hillside or I don't know, develop it, mine it, put a crusher in place, I mean that's probably going over the top, but just because you can't do that, doesn't mean that if you keep banging away at the wall and stop all these processes, that somewhere down the track you are going to be able to do it. I don't believe for one moment that there is going to be the flexibility given to the landholders the concerned landholders in KAVHA to be able to do what they wish, with their block of land. There is absolutely nothing to prevent the landholders and I know the Commonwealth are amenable to it, after having spoken to Terry Bailey last week, to want to discuss KAVHA boundaries. They are happy to do that. But what might that mean. It might mean that they do come in behind the stone wall and as I've said, if they do come in behind the stone wall, what's the net impact of that. Maybe those properties are excluded from KAVHA but as I understand it, they will never be excluded from the operation of the EPBC Act and its effect on the national environment significant site such as KAVHA. I think there has to be an acceptance that, that is the environment on which we live today. And yes, we can keep beating the drums for the next 500 years about this and say, look, we want a different environment. And yes, somewhere that might change, but I think at the end of the day, there isn't going to be the resolution I think some people are looking for. However, in saying that if those boundaries were moved or partially moved and there still are issues, which there will be I'm certain, still are issues, I'm happy to go into bat as I think the Minister for Finance has already said, to go into bat for compensation for those landholders. I said, we've already had one response from the Commonwealth in 2006 or thereabouts from the then Minister for Territories who thought that the chances of that happening were sweet FA and it was about as blunt as that, as it as delivered to us so, where do we go from here. That response at that time was then, it's probably not tempered, but was certainly added to by a very leading figure in the then Opposition who was a Member of the Joint Standing Committee that visited Norfolk Island and now is a very senior Member of the front bench of the Australian Labour Government who I took for a guided tour with his Chief of Staff around Kingston during a visit to the island, and his very first question to me was, what are the issues that the landholders in KAVHA have? And I tired my best to explain them and not too dissimilar to those that we are all aware of in the paper work that's been circulated and published in the newspaper, went through all of those, and went through how strongly those people value their connection with their properties, the historic values passed down through families etc. his response to that was that there was a very very simple resolution to that process and if they were in Government it would be as simple as resuming the whole lot. Now I don't want to see that happen. I don't think any of the landholders want to see that happen. You get a bucket of money but you lose your connection with your land and where you live. But we

management plans that set out how the significance of the site will be protected or conserved. These plans need to be consistent with the national heritage management principles which provide a guiding framework for excellence in managing heritage properties". The point I'm trying to make here Mr speaker, is it is not just a simple process of adapting a conservation management plan that will to use the word, satisfactorily address everybody's concerns, because the conservation management plan must reflect those guiding principles and if you were to bang the drums that much to say look, we need to have something different in our conservation management plan, as it applies to the properties in KAVHA, it certainly won't be endorsed, and then we run the risk of a plan being put in place that must meet those principles against our better judgement or our support for ensuring the landholders concerns are addressed. I would certainly hope that people will take the time to read that document because it was a request that, that happens so that people clearly understood the implications of the EPBC in Norfolk Island. The CMP is specific to the KAVHA site. If the boundaries are redrawn that still remains the same. The EPBC Act in its operation still extends outside of those boundaries in relation to anything of significant impact on the site. Thank you Mr Speaker

SPEAKER Any further debate Honourable Members. I now put the amendment and the question is that the motion be agreed to

QUESTION PUT
AGREED

MR SHERIDAN ABSTAIN

The motion as amended is agreed to Honourable Members

SUSPENSION OF SITTING

Members I take note of the time and I would request Members approval that we suspend the sitting of this House until 2 o'clock. Is that in favour. Thank you. We suspend until 2 o'clock

RESUMPTION OF SITTING

SPEAKER Honourable Members we now resume the sitting of this House and we move on to a motion by leave

IMMIGRATION ACT 1980 – SETTING OF QUOTA

MR NOBBS Mr Speaker I seek leave to move the motion circulated to Members to set the new immigration quota.

SPEAKER Is leave granted Honourable Members. Leave is granted. Chief Minister

MR NOBBS Mr Speaker I move that for the purposes of subsection 21(1) of the Immigration Act 1980, this Legislative Assembly resolves that it be determined by instrument in writing that 60 General Entry Permits be granted during the period 17 February 2008 to 16 February 2009. Mr Speaker this quota figure follows on from last years quota figure of an intake of 60 positions. Given the trends that we've had in immigration over the term of my period in office here, I think it follows on that if we were to carry on with a further quota of 60 and perhaps review how we are operating on a quarterly basis, if we need to we can make adjustments to account for trends

MRS JACK Mr Speaker the last few quotas that have been set up, I believe I have been pretty consistent in seeking an open, not setting a quota at all.

However I've always supported the higher numbers so I have no trouble in supporting this but it's good to see that we are opening up the gates so to speak and I fully support this number

MR GARDNER

Mr Speaker to a degree I have a slightly contrary view even though I think it's fair to say that over the years, I've supported ensuring that we are meeting the needs of the community of Norfolk Island as far as population numbers are concerned and I know that it's been espoused quite widely over the last twelve months or so that there's a need to grow the permanent population. A need to draw people into the island and I certainly know that, that's caused a great deal of concern amongst the number of people in the island that we seem to be directing our energies to wanting to bring people into the island but not directing our energies into wanting to retain those that were born and bred on the island in the island, and so I just wanted to register that, that that is a concern that's around. My second issue is I can't recall in the last ten years or so not having been provided with supporting facts, documentation in support of a quota number and I find that a little troubling because it's very difficult to make an informed decision when you are not armed with the facts and the detail. I expect that the situation, or I can only assume that the situation hasn't changed over the last twelve months and that the information that we were provided twelve months ago still holds true, but in that time we've announced a review of our immigration regime and we've announced that we are going to develop or review the population policy and so I'm sort of betwixt and between in that I have no detail on either of those. I have no detail to support the motion that's before us and I just wonder whether the Chief Minister might be able to expand a little to provide me with some comfort before I'm asked to make a decision simply based on a figure that's been placed on a piece of paper because it is an important decision and one that we need to be fully informed on when we make important decisions.

MR SHERIDAN

Mr Speaker I fully concur with Mr Gardner's comment there. Immigration to Norfolk Island is one of the hot potato topics around the place and as Mr Gardner indicated, it would be handy to have on hand figures, such as how many GEP's were granted in the previous twelve months, I believe we had a number of 60. How many of those were utilised? How many new GEP's came into the island? Not GEP's that transferred from TEP's or were granted the section 18, resident spouse etc, so all of these things really come into the debate and unfortunately at this time, we have to take the Chief Minister's word for it, that 60 is the required number, whether or not they were filled last year, whether we went over it, I don't believe we did because I was on the immigration committee and I don't believe we reached our quota in the last twelve months but it's just handy information to have when you are debating such a hot topic

MR NOBBS

Mr Speaker thank you for valid points from both Mr Sheridan and Mr Gardner. I should point out that I only became aware of the fact that the existing quota expired prior to the next meeting of the Legislative Assembly yesterday, and so some running around was done to ensure that I had a quota to set as of today rather than to let it lapse. During the previous year a progressive quota intake of 60 positions was set, as I said earlier, and this actually resulted in ten business entrants, 11 employment entrants within the semi skilled field, and 11 dependent school age children. There were 32 persons in total granted GEP's under the quota with one third being for children so I hope that would be some indication of some of the figures. Now our total population over the 2007 period decreased by some 25 persons, from the 2006 figure of 1870 persons. What I might do aside from that information is if anyone has any particular view that is relative to the quota I'll be more than happy to take that on board. From what I can gather, that information that I've just provided there was provided in the previous submissions for quota. Thank you

MR ANDERSON Mr Speaker I support that quota number whilst I agree with Tim and Geoff that we do need figures, we have just seen those and I'll support the motion

MR GARDNER Mr Speaker just a comment if I may. It's a little disconcerting to me that only yesterday the Minister for Immigration was provided with advise that we needed to set a quota. There's something failing in the system if we aren't provided with the detail. That's the point I'm trying to make. It is an important issue and it shouldn't just be fobbed off as just another light issue that we have to deal with. It is a serious issue dealing with immigration matters and if there was an issue, and I think a valid concern by Members which I'm trying to raise, I think it should be addressed seriously. Now there's a couple of ways of doing that. I appreciate that if we don't set a quota today it's open slather and the numbers are limitless. There's a couple of ways of dealing with the issue so that we are properly informed and one of those is to set a much smaller quota as an interim step until such time as we are provided with the detail to make an informed decision but if we are going to continue just to say, oh no, it's all good and it's all right, I won't be supporting the motion.

MRS JACK Mr Speaker isn't there another way of dealing with it, to suspend the sitting and resuming it tomorrow until we are all properly informed. Is that an option

MR GARDNER Mr Speaker if I could just respond to that. I'm happy to set a quota of say, 10. They certainly aren't going to be used up in the next month and then we get provided with the detail. There is absolutely nothing to prevent this House from setting the additional 50 if that figure is justified, I'm happy to give consideration to that but certainly I'll be looking for in that interim period if the House were to agree to that, to having detail of where we are with the population policy; where we are with the immigration review and just how we are going to go about trying to stem the flow of people off the island, before we start looking at how we are going to invite 60 more people to come into the island under the GEP process

MR NOBBS Mr Speaker I would be quite conducive to that if everyone else was in agreement to set a reduced figure. However, the outflow or to use Mr Gardner's words, the outflow of people leaving Norfolk Island isn't necessarily a factor affected by the quota. It is a factor affected by the economic situation however, I would be more than happy to set a figure and get an indication of the specifics of what Mr Gardner is after in terms of information and bring it to the House at the next meeting. The purpose of bringing the setting of the quota to this meeting was so that it didn't lapse

MR SHERIDAN Mr Speaker I note the Chief Minister's comment with regard to the downsizing of Norfolk Island's population, is in the main not due to the GEP process but to the economic situation. I would like the Chief Minister to respond as to how exactly he views what sort of economic factors are affecting the downturn in our population, but I do note from last week's immigration figures, that there was actually something like 1920 people on the island, so maybe there's a few home for holidays etc, but that's how the figure stands up and they haven't stood up like that for the last month or so up around the 1900 mark, so I don't know when 1870, that benchmark for the total population for Norfolk Island was taken. I don't know when indeed, whether it was taken in February, in January of each year so that would be something nice to know as well, so just in particular your comment with regard to the economic factors affecting people leaving the island, I would just like you to expand on that, just to hear your reasons

MR NOBBS Mr Speaker it has been one of the issues that's been flowing around, that some of the view that the cost of living on Norfolk Island is the cause of certain people departing and that in some areas, we are subject to many of the costs of remoteness that affect us, and an example is glaringly obvious in the fuel so there are those factors and they are also things that we would attempt to address around

this table. Now having said that, there are also some people who leave thinking that Norfolk Island's cost of living is escalating in a proportion that is not equal to any other locale and in many cases they are finding that we are right in line, in fact, we noted inflation figures the other day which placed Norfolk Island's inflationary movement somewhere within the Reserve Banks acceptable boundaries. So although the cost of living is most definitely the hot topic when it comes to people leaving, and keep in mind that I think the figure I talked about there was 25 individuals, wasn't it, 25 persons, residents leaving Norfolk Island there is a normal trend that Norfolk Island has in that regard. Some of it can be attributed to people leaving for tertiary reasons, or extending their careers, or looking after family who may be abroad, or for travel, for all manner of reasons, so there's quite a broad range that affects Norfolk's resident arriving and departing population that affect many other places

MR GARDNER

Mr Speaker forgive me, I'm a pretty simple man but I do know how one and one equals two. I can manage that. But to be running an argument that the economic cycle in Norfolk Island is what's driving people away, now I can accept that but to the other side of the fence which is apparently a lot more greener both in Australia and New Zealand to a lot of people, why is it that the people in the green pastures suddenly want to come back to something that's drought affected. To me that argument just doesn't hold water. I accept that people do migrate of their own will from time to time, not just purely driven by economic factors, but the point that I was trying to make earlier is that we announced some twelve months ago nearly, a population policy review and an immigration policy review. I only want to know where we are going with that so that we can make informed decisions. Rather than just having a figure that's churned up because twelve months ago that's what we did and twelve months before that we might have done things slightly different, but in an attempt to make an informed decision. We're not being given that opportunity and that saddens me greatly. That's all I'm asking for and at an appropriate time I would like to move to amend the motion to put in place, I can put in five because that's one twelfth of the 60 that is proposed, but I'm comfortable with 10 on the proviso that we get the documentation before us that tells us where we are going, why these decisions are being made and we can have an open and free debate about these issues when it comes to the table, rather than having nothing to debate on and then being asked to make a decision

MR CHRISTIAN

Thank you Mr Speaker, I don't share Mr Gardner's concerns with wanting detail. Detail in respect of migration to Norfolk Island is provided to the immigration committee and they make a recommendation to the Minister as to whether somebody should be allowed to migrate to Norfolk Island to live. Setting a quota merely provides the number of positions available in Norfolk Island. History tells us over the recent years that we've never managed to fill them. So I have no difficulty whatsoever, with setting a quota of 60 in full knowledge that history tells us that we probably won't fill them, but if we do, they are probably welcome because there are many people out there saying we need population growth in Norfolk Island and the estimates are all around 15% or something like that, and so I'm quite comfortable with setting a quota of 60. of course I'm also quite comfortable in the fact that we are highly unlikely to fill them in the next twelve months, but I certainly want to make it clear to people that we are not a closed shop in Norfolk Island. If you would like to come and be part of our community, by all means, submit your application, and we will consider it

MR ANDERSON

Mr Speaker I agree with Neville's remarks. They are two separate issues. Geoff is right that we need this information and we should be looking at this information and analyzing why there are trends and otherwise but it doesn't get away from the basic situation that we do need more people and we don't have to have a lot of information in our hand to accept that. As Neville said, when have we ever got to that amount. Anywhere near it, so what are you worrying about. That doesn't mean that you don't get this information and you don't spend more time analyzing it and understanding it. It's the understanding of it which is very important if we

are going to get the right people here and stop the outflow of the people who we want to hold on to. Yes, I'll support this Mr Speaker

MR GARDNER Mr Speaker if I could put my amendment please. I seek your leave to do so. Thank you Mr Speaker I move to amend the principle motion by substituting the number "10" for the number "60"

MR SHERIDAN Mr Speaker I would presume there that when Mr Gardner says 10 by 60 and he leaves the period the same that it's going to be the twelve months, or are we debating that we are going to revisit it

MR GARDNER Mr Speaker I rely on the office of the Chief Minister and the Minister responsible for Immigration to bring back the information that I've requested. A simple request for information but upsetting that you can't get that within Government to ensure that that information is provided. I'm happy to consider as I said earlier, extending it out to 60 for that period, when I get that information so that I can make a properly informed decision. I hear what Mr Anderson says, and I hear what Neville said, about the quota and we've never filled it. Well why bother bringing the motion to the House in the first place because the effect of not bringing the motion to the House would have just been able to let it be open slather. We're never going to reach it so let's not bother about it. I'm not comfortable with that attitude either, but I move that the question be put

SPEAKER There has been a motion that the amendment to the motion be put and I do so

QUESTION PUT

SPEAKER Madam Deputy Clerk could you please call the House

MR SNELL	AYE
MR B CHRISTIAN	AYE
MR SHERIDAN	AYE
MRS JACK	AYE
MR N CHRISTIAN	NO
MR NOBBS	NO
MR GARDNER	AYE
MR ANDERSON	NO

SPEAKER The result of voting Honourable Members, the Ayes five, the noes three, the ayes have it. Therefore the amendment becomes the motion and the motion is that the quota for the interim period until further amended in the House now stands at 10 general entry permits in lieu of 60. is there any debate on the amendment

MR GARDNER Mr Speaker I commend the motion to the House and I look forward to the receipt of the information so we can consider the additional 50 positions at the February sitting of this House

SPEAKER Any further debate Honourable Members. Then I put the question that the motion as amended be agreed to

QUESTION PUT
AGREED

The ayes have it, that motion is so agreed, thank you

LIQUOR (AMENDMENT) BILL 2008

MR CHRISTIAN Thank you Mr Speaker, I seek leave to present **the** Liquor (Amendment) Bill 2008 dated 15 January 2008 and for the Bill to be considered through all stages at this sitting

SPEAKER Is leave granted Honourable Members. Leave is granted Minister

MR CHRISTIAN Thank you Mr Speaker, I present the Liquor (Amendment) Bill 2008 and move that the Bill be agreed to in principle. Mr Speaker I table the Amending Bill and I also table the Explanatory Memorandum for that Bill. Mr Speaker this Bill seeks to amend section 75b of the Liquor Act 2005. The Liquor Act 2005 repealed the old Liquor Act 1960 and introduced a number of sensible changes to regulate the sale and consumption of liquor. The longstanding statutory position has been importation of liquor into Norfolk Island by persons other than the Administration requires authorisation by the Executive Member. Importation without such authorisation is in fact an offence. It's been brought to our attention that the terms of section 75b of the Liquor Act 2005 might have the unintended consequence of hampering prosecutions for unauthorised importation of liquor. The intention of the Bill is to remove that potentially unintended consequence to retain the long standing requirement for relevant importations of liquor to be authorised by the executive member. Thank you Mr Speaker

MR GARDNER Thank you Mr Speaker, it's a simple amendment and an appropriate course of action to ensure that we maintain control over the importation of liquor and distribution of liquor within the island and I'll be supporting the Bill

SPEAKER Any further debate? The question is that the Bill be agreed to in principle Honourable Members and I put that question

QUESTION PUT
AGREED

Thank you. That motion is agreed to

We now move to the detail stage. Is it the wish of the House to dispense with the detail stage. We so dispense. I call on Mr Christian

MR CHRISTIAN Thank you Mr Speaker. Mr Speaker I move that the Bill be agreed to

SPEAKER Thank you Mr Christian. Any further debate? The question is that the Bill be agreed to Honourable Members and I put that question

QUESTION PUT
AGREED

Thank you. The Bill is so agreed to

We move on to Orders of the Day and Order Number 1

SUPPLEMENTARY APPROPRIATION BILL 2007-2008

SPEAKER Honourable Members we resume on the question that the Bill be agreed to in principle and Mr Neville Christian has the call to resume. Mr Christian

MR N CHRISTIAN Thank you Mr Speaker, I don't have too much to say in this, other than to I suppose refresh people's memory that the requirement for this bill has principally been brought about by changes to the way fuel is imported into Norfolk Island. As you are probably all aware, when people other than the Administration import fuel, the fuel levy attaches itself to that import and that levy which is 20 cents per litre is provided directly to the Roads GBE to fund its activities. With the way Norfolk Energy is structured at the moment, because the Administration is the importer of the fuel the Road levy doesn't automatically attach itself to that import so we provide an alternative mechanism whereby when the Public Service calculates the retail price for fuel they include an amount of 20 cents per litre as if it was the road levy. That money flows in to the Administration revenue fund, and in order to shift that money from the revenue fund, back to the roads GBE the appropriate way to do it at this stage is by way of an appropriation bill so what I seek to do here Mr Speaker is to shift up to \$400,000 from the revenue fund to the Roads GBE to allow the Roads GBE to continue its work for the remainder of this financial year. Thank you

MR GARDNER Thank you Mr Speaker, as the caretaker of Mr Magri's portfolio responsibilities, and this is one of them, roads, he certainly wouldn't forgive me if I wasn't going to support this during his absence. I certainly do support it. It's necessary to ensure that we are able to address the construction and maintenance of our roads system in Norfolk Island and you can't do that without money as the Minister said, this is the appropriate course of action to ensure that the roads fund has the sufficient funds to be able to discharge the undertakings given by the Minister and the Legislative Assembly in the course of its budget proposals from last year and I'll be supporting the Bill.

SPEAKER Thank you. Is there further debate at this time? . Honourable Members, then I put the question that the Bill be agreed to in principle

QUESTION PUT
AGREED

The ayes have it. The Bill is agreed to in principle

We move now to the detail stage and Mr Christian, you have a detail stage amendment

MR CHRISTIAN Thank you Mr Speaker, I'm getting a little bit ahead of myself in the original documentation, and I move that the words "An Act" in the long title of the Bill be deleted and the words "A Bill for an Act" be inserted instead

SPEAKER Honourable Members is there any further debate. There being no further debate I put the question that the amendment be agreed to

QUESTION PUT
AGREED

The amendment is agreed to. Any further debate. I put the question that the Bill as amended be agreed to

QUESTION PUT
AGREED

Honourable Members that is so agreed. Mr Christian, I now look for a motion that the Bill as amended be agreed to

MR CHRISTIAN

Mr Speaker, I move that the Bill be agreed to

SPEAKER

Is there any further debate Honourable Members?

Then I put the question that the Bill be agreed to

QUESTION PUT
AGREED

The Bill is agreed to. Thank you Honourable Members

ROADSIDE BREATH TESTING

SPEAKER

Honourable Members we resume on the question that the motion be agreed to and Mrs Jack, you have the call to resume. Mrs Jack

MRS JACK

Mr Speaker I won't be saying much more on this motion. The motion is very simple and suggests requesting the police be allowed to use a portable alcometer if they suspect somebody is driving under the influence, that they can follow the driver and ask him to submit to a roadside breath test. It's not taking on board the full random breath testing of every car going past a spot or whatever, the police will still have to.... If this motion gets up, and a person is deemed over the limit, then they are taken back to the police station to undergo the proper full testing available there at the police station and then once they are in court the police will also have to state the reasons why they believe they had reasonable cause to pull over that vehicle and ask the driver to submit to a roadside breath test. It will either get up or not Mr Speaker and I'll let the Members decide and here their views. It was purely brought to me with my concerns also through various groups that made representation to me and it is not just a personal wish in bringing forward this motion but the result of meeting with several groups and with many individuals in the community. Thank you

MR ANDERSON

Mr Speaker I would just like to endorse the move and say that I will be supporting it

MR SHERIDAN

Mr Speaker I think I made my intentions clear at the last sitting that I would be supporting this motion. It merely reflects that Minister Magri is got to do a little bit of homework, which I know he's already trying to do, he's trying to get his head around how he presents this Bill to enable this to happen, and I note that all Members have the copy of a letter written by Alan Bataille on behalf of the social awareness advisory committee commenting on the introduction of the alcometer and the ability to breath test drivers that police suspect or have reasonable cause to suspect that a person has committed an offence against the act. It's worthy to note that the same committee, they don't support the introduction of a random breath testing and I think this is what Minister Magri is trying to get his head around, how to write the Bill to just enable the officers to utilise this equipment on certain occasions without as people see it, victimisation by setting up a breath testing station so notwithstanding my fulltime job there Mr Speaker as you say, I might indulge in a beer or two and I serve people who do so, that's my job I serve people grog and I know it will upset a few of them, but I think we have to move on there and this sort of legislation will make the officers jobs a lot easier to complete, so with those few words I'll be supporting the motion

SPEAKER

Thank you Mr Sheridan. Is there further debate at this time? . Honourable Members, then I put the question that the motion be agreed to

QUESTION PUT
AGREED

The ayes have it. The motion is agreed to

SUBDIVISION (AMENDMENT) BILL 2007

SPEAKER Honourable Members we resume on the question that the Bill be agreed to in principle and Mrs Jack, you have the call to resume. Mrs Jack

MRS JACK Thank you Mr Speaker. Mr Speaker I did advise that I wouldn't be bringing this amendment forward at the Business committee meeting last week. I know that the Minister for Tourism and Health did have concerns and I wanted him to be able to talk to the Planning Officer. I myself haven't had a chance to discuss those concerns regarding the repeal of certain sections that the Minister had. Until I have these concerns answered or you know, we may have to do a detail stage amendment, I don't want to bring the motion forward and I ask leave to put it as a matter of debate for the next sitting, Thank you

SPEAKER Thank you Mrs Jack and we move therefore, to Order of the Day No 4

ABSENTEE LANDOWNERS LEVY (AMENDMENT) BILL 2007

SPEAKER Honourable Members we resume on the question that the Bill be agreed to in principle and Mr Neville Christian has the call to resume. Mr Christian

MR N CHRISTIAN Thank you Mr Speaker, what we are trying to do here is to just modernize our Absentee Landowners Levy legislation and it really does nothing more than reflect the society that we live in today. The affect that the changes will have are as follows, currently the legislation provides for the Executive Member to gazette a levy day each year and what we propose to do now is to enshrine that day in legislation so that the executive member doesn't have to continually issue the gazettal notice and that day will be September 15 each year from now on if we agree the amendments. The next minor amendment is that the old legislation makes reference to the old public works levy from 1976 and that piece of legislation disappeared long ago and so we will repeal that section. The next amendment is basically in respect of companies as such that carry out business in Norfolk Island where all of their shareholders don't live in Norfolk Island and the area that, that will affect is the operation of hotels, boarding house or the provision of holiday accommodation and the holiday accommodation industry in general so what we've found there over the last few years is that more and more of these properties operated under a company structure and not all of the shareholders live in Norfolk Island, so it was therefore thought appropriate that if you don't live here you should at least contribute in some shape or form, so they'll no longer be exempt. Another minor amendment there is one section we refer to the Banking Act 1959 and we're just adding to the end of that the word "Commonwealth" in brackets, to make it clear that we are in fact referring to an Australian banking act and not to a Norfolk Island one which doesn't actually exist. A further amendment is just to remove reference to the Lunacy Act 1932 as those provisions are now covered by the Mental Health Act and another amendment we are dealing with is just deleting one section where it deals with probate and administration and we are instead substituting for the Probate and Administration Act 1976, the Administration and Probate Act of 2006 so they are the main changes, and the last one is at the moment, that the Executive Members decision in all of this will be appellable but you will now make your appeal to the Administrative Review Tribunal in Norfolk Island rather than the Supreme Court of Norfolk Island so it simplifies the process if anybody has a difficulty with anything the Minister has done in respect of levy notices or valuations and the levying of the levy. Thank you

MRS JACK Mr Speaker thank you. If I could just refer to some discussion regarding the amendment that Members had on this, yesterday, and the Minister was asked why just companies were being chosen and why not being far more ranging in the scope of where owners or some of the owners may live off shore, if he could just go through some of those reasons, because where you are referring to just dealing with issues as they arise at the moment

MR CHRISTIAN Thank you Mr Speaker, and I thank the Minister for reminding me of that. The question that will obviously be asked is why not deal with company structures in other businesses other than accommodation. The response at the moment is that the accommodation industry is one where potential problems have been highlighted by the Public Service who have recommended to me that we deal with that one at this stage and if other types of businesses become a problem later down the line, well we can deal with them at an appropriate time and a similar manner but they don't form part of the changes I'm proposing at the moment

MR GARDNER Thank you Mr Speaker, as you might recall I've raised a couple of concerns with the introduction of the bill last week and was more than satisfied with the explanations that the Minister has given and I thank him for bringing that detail back to us at our meeting yesterday, that Mrs Jack referred to and I'll be supporting the passage of the legislation today

MRS JACK Mr Speaker just one more question. I notice Minister that the percentages charges haven't been changed in a fairly decent period of time. I'm just wondering if it's his view that he'll be looking at a review of the percentages charged in the near future or is it part of his priorities at all

MR CHRISTIAN Thank you Mr Speaker, actually Mrs Jack's quite right, the Absentee Landowners Levy is levied on the unimproved capital value of the land. It currently is 1% and probably has been 1% for a heck of a long time. I don't have any intention at this stage of reviewing that rate, but for residents living off island there's provision in the legislation, this has always been in the legislation as far as I am aware, that the levy would be 25% of the amount that would be applicable if you didn't live in Norfolk Island full time but notwithstanding that, the actual maximum that you would be required to pay in one year would be \$500 so that's just by way of information

SPEAKER Any further debate Honourable Members. There being no further debate I put the question that the motion be agreed to

QUESTION PUT
AGREED

Is it the wish of the House to dispense with the detail stage? Thank you. Could I therefore have a final motion please Mr Christian

MR CHRISTIAN Mr Speaker, I move that the Bill be agreed to

SPEAKER Is there debate? Then I put the question that the Bill be agreed to

QUESTION PUT
AGREED

The Bill is agreed to. Thank you Honourable Members

FIXING OF THE NEXT SITTING DATE

Thank you Honourable Members we move to the fixing of our next sitting day

MR ANDERSON Mr Speaker I move that the House at its rising adjourn until Wednesday 20 February 2008, at 10.00 am.

SPEAKER Thank you Mr Anderson. Is there any debate Honourable Members. The question is that the motion be agreed to.

QUESTION PUT
AGREED

The motion is agreed

ADJOURNMENT

MR B CHRISTIAN Thank you Mr Speaker I move that the House do now adjourn

SPEAKER Thank you Mr Christian. Is there any further participation in adjournment debate Honourable Members. Chief Minister

MR NOBBS Mr Speaker Thank you. Just as we near close, I let everyone know that tomorrow morning from 9am the four executives will be at the Radio station and we'll be able to answer any questions sent in by email etc as well as engaging in talk back. Thank you

SPEAKER Thank you Chief Minister. Honourable Members any further participation in adjournment debate Honourable Members There being no debate I put the question that the House do now adjourn

QUESTION PUT
AGREED

Therefore Honourable Members this House stands adjourned until Wednesday 20 February 2008 at 10.00 am.

